ILLINOIS SENATE
COMMITTEE ON PUBLIC UTILITIES

Reply of Public Utilities Commission to Criticisms Made Against the Commission and General Statement Relative to the Administration of the Public Utilities Commission Law

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PUBLIC UTILITIES COMMISSION
Springfield

May 7, 1919.

Hon. John Dailey, Chairman, Senate Committee on Public Utilities, Springfield, Illinois.

Dear Sir:

On March 20th, the Secretary of the Public Utilities Commission received from you a letter, of which the following is a copy:

"A series of public hearings have been and are now being conducted by the Senate Committee on Public Utilities. In the course of these hearings some criticisms have been indulged in concerning the administration of the law by the Illinois Public Utilities Commission.

"On behalf of the Senate Committee, I respectfully ask the Illinois Public Utilities Commission, if agreeable, to present in writing to the Senate Committee, any comments such Commission may desire to make relative to these criticisms. The Committee would also be pleased to receive any information concerning the administration of the Public Utilities Law generally, and with particular reference to increased emergency rates made during the war period.

"I will be pleased to furnish the Commission with a typewritten copy of all proceedings of the Committee in this matter.

"If it is agreeable and convenient for the Commission to comply with this request, I would further suggest that a copy of your communication be submitted to Mr. Watson, of Aledo, Illinois, who is chairman of the Organized Municipalities of Illinois, demanding vital amendments to the present law."

In response, the Commission has caused to be prepared a statement along the lines indicated for the record of the hearings by your Honorable Committee, which statement is respectfully submitted.

Very truly yours,

(Signed) T. E. Dempcy, *Chairman.*

STATEMENT

An examination of the record suggests a statement in two parts, one embracing comments upon or answers to the criticisms relating to the administration of the Public Utilities Act by the Commission; the other, containing information concerning the administration of said act generally, and with reference to increased emergency rates during the war period.

The first part of this statement embraces comments upon and explanatory statements or denials of charges or criticisms of the Commission, involving alleged acts or omissions respecting notice and conduct of hearings, etc., the inference conveyed being that the attitude of the Commission has been one favorable to the utilities rather than in the interest of the public served by such utilities.

Public officials, possessed of the proper conception of the duties, responsibilities and obligations appertaining to public office, will court fair, just and constructive criticism, to the end of serving the public more efficiently. This is the Commission's attitude toward the public, including the utilities and the public served by them, and it is the constant endeavor of the Commission to see to it that every officer and employee in the organization shall measure up to this conception.

While the Commission knows that practically all of the charges and criticisms appearing in the record are unfair, misleading and without foundation in fact, yet it does not wish to be understood as here charging that said criticisms are intentionally false, unfair and misleading, whatever the fact may be. It is apparent, however, that some of the charges and criticisms were loosely and carelessly made, as if upon rumor alone and without investigation. Some are by mere inference or innuendo, and are very difficult to deal with in an intelligible manner.

In all cases, however, the Commission has endeavored to treat each and every charge or criticism frankly and fully, and its comment and answers speak for themselves.

As to the second part, the Commission has attempted to respond to the suggestion of the Committee for "information as to the administration of the Public Utilities law generally, and with particular reference to increased emergency rates made during the war."

The Commission has not felt called upon to discuss any proposed bill, whether to repeal or amend the Public Utilities act; nor to submit a brief, either upon the legality or wisdom of proposed "Home Rule" for municipal regulation and control of public utilities, as to service, rates, security issues, the granting of certificates of convenience and necessity, etc. The Commission has felt, however, that it would be within the limits of propriety to submit some observations on the so-called "Home Rule" of public utilities, and to call attention, by quota-

tion, to reports of legislative committees and to cite some authorities for the consideration of the Committee, bearing directly upon the question before said Committee. Most of these references, however, are in support and justification of the Commission's administration of the law and particularly with reference to increases in rates made during the period of the war, when, by reason of abnormal conditions the rates, service and general supervision of public utilities were so vitally and seriously affected.

Specific complaints and charges made to the Senate Committee on Public Utilities against the Public Utilities Commission at the meeting of said Senate Committee at Springfield, March 5, 1919.

E. J. CARMODY, town attorney for the town of Cicero, stated as follows:

(pp. 17-18) "We have been placed in the position time and again right in our own little town of Cicero where we have been legislated against by this Public Utilities Commission without receiving any notice whatever, without anything being done to notify us that they were going to do something. As an example—

THE CHAIRMAN: Just pardon me a moment. You say that the Public Utilities Commission have legislated against the city of Cicero and made orders with reference to public utilities without notice?

MR. CARMODY: Yes sir, absolutely, and I will cite an example.

THE CHAIRMAN: What instance, please.

MR. CARMODY: Through the town of Cicero there is a street car line running which is known as the Berwyn Line. It is a surface line carrying passengers from Riverside and Lyons into Berwyn and the city limits. It operated along a street known as Twenty-fifth street east and west through the town of Cicero and from Forty-eighth avenue, the eastern boundary, to Sixty-second avenue, the western boundary. Without any notice whatever to the municipality other than the posting of a notice in the street car that the route of that line was going to be changed, those cars were switched on a certain day so that instead of operating as they formerly did on Twenty-fifth street, they were re-routed up Fifty-second street a half mile north of Forty-second street and then east on Twenty-second street to Forty-sixth avenue, instead of going as they formerly did. The Commission in its wisdom saw fit to re-route them, but they did not ask the officials of the town of Cicero, nor did they ask the people of the town of Cicero whether they liked it or not, nor did they give them an opportunity to be heard on the question of whether they wanted these cars re-routed. We filed a petition for rehearing, which we did as soon as the order became effective. We were given a hearing down there before Mr. Weston, who is not a member of the Commission, but an employee, as I understand it. Mr. Weston considered our case and the next thing we heard was an order affirming their former decision and the cars today are operating in that manner."

Statement of Public Utilities Commission as to above charge.

The file of the Commission in case No. 8047, application of Chicago and West Towns Railway Company for permission to discontinue service on West Twenty-fifth street, in the town of Cicero, shows that the application was filed on April 25, 1918. A copy of the application was mailed to "Village Clerk of Cicero, Town Hall, Twenty-fifth and Fiftieth streets, Cicero, Illinois," on April 26, 1918.

On may 23, 1918, notice of hearing to be held on June 12th, was mailed to "Mr. Frank Houcek, Clerk, Town of Cicero, 2517 South Fiftieth avenue, Cicero, Illinois."

Under date of May 27, 1918, Mr. Houcek wrote to the Secretary of the Commission as follows: "I am in receipt of your notice of the 23rd instant, to attend a hearing at the office of the Commission in Chicago, 714 Insurance Exchange Building, on Wednesday, June 12, 1918, at 10 a. m. Will be present at the above mentioned hearing or be represented."

A hearing was held at the office of the Commission in Chicago on June 12, at which the town of Cicero was not represented.

An order was entered by the Commission on July 1, 1918.

On July 11, 1918, the town of Cicero requested that the matter be reopened. This request was granted by the Commission and a further hearing was held at the office of the Commission in Chicago on September 25, 1918, at which the town of Cicero was represented by Mr. E. J. Carmody and Mr. Frank Houcek.

A supplemental order was entered by the Commission on November 18, 1918, affirming the original order.

Senator Duvall, of St. Clair County, in speaking with respect to the bill introduced by him in the Senate to abolish the Public Utilities Commission, among other things, said:

(p. 50) "We have had rate increases, demands made at the expense of the people who are patrons from interurban lines and others, in which it is provided for a five zone system of collection; tickets already printed in the hands of the people to patronize the road and the decision was not rendered, so it appears on the face of it those things are arranged while the public are inquiring what is going on. That is the reason I say it is not a republican form of government, so, therefore, I am glad there are other bills along the same line that will be considered with this bill and as long as they will be taken together and there will be an informal discussion, I would welcome it."

Statement of Public Utilities Commission as to above charge.

Evidently Senator Duvall, in the foregoing, refers to the application of the East St. Louis and Interurban Railroad, case docket No. 8611, for an increase in fares under a proposed zone system applicable to a part of the distance between East St. Louis and Belleville lying in the eastern part of East St. Louis.

The Commission has no information as to whether the Interurban Company at any time had printed and ready for sale to patrons,

tickets adapted for use under the zone system of adjusting fares proposed by said company. If the company did so it was purely gratuitous on its part and without the knowledge or consent of the Commission. The case is still pending and undetermined, and the charge, not directly, but rather by innuendo, that anything connected with the case was arranged between the Commission and the company, whereby the company was supposed to have had knowledge of what the order would be, and therefore printed tickets adapted to such an order, is wholly without foundation. No assurance was ever given to the company by the direction or authority of this Commission, or with the knowledge of this Commission, as to what the order in the case would be.

The Commission is at all times exceedingly careful to prevent the giving out of information as to what the Commission is doing in any pending case, and nobody knows, until an order is entered, what the decision of the Commission will be in any case.

E. J. CARMODY, town attorney for the town of Cicero, also stated as follows:

(pp. 18-19) "The Chicago elevated of the City of Chicago, and there are members of the Commission here and I think they will bear me out in what I say—the elevated railroads of Chicago went in for an advance in rates and received this advance. The Douglas Park branch of the Chicago Elevated runs through the town of Cicero from its eastern to its western limits and the town of Cicero was not a member to the proceeding, received no notice that an application was being made for an advance in rates. Different signs were posted in the cars as in the case of the surface lines, that is the first we knew of it.

MR. HULL (Cook): Were those raises in rates in violation of ordinance?

MR. CARMODY: We have a contract which requires the elevated roads to transport our passengers to the loop for five cents. They are charging us six cents, and we have received no notice of a hearing before the Utilities Commission."

Statement of Public Utilities Commission as to above charge.

The records in case No. 8530—the case above mentioned—show:

That the application of the Chicago Elevated Lines for an increase in rates was filed with the Commission on September 2, 1918.

A copy of the application of the Elevated Lines was sent to each of the following: Corporation Counsel, City of Chicago; J. L. Vette, Attorney, Chicago Real Estate Board; Wm. M. Lawton, Attorney, Cook County Real Estate Board; and Chicago Association of Commerce.

The first hearing in this case was on September 23, 1918, at the Commission's office in Chicago, and notices were sent to the above mentioned parties, as well as to the Elevated Lines. At the hearing on September 23, 1918, the following appearances were entered of

record: A. L. Gardner, C. H. Adams and Gilbert E. Porter, Attorneys for petitioners; Samuel A. Ettelson, Corporation Counsel, by F. S. Righeimer, R. G. Crandall and Chester E. Cleveland, for the City of Chicago; Wm. M. Lawton, Attorney for Chicago Real Estate Board; and Wm. Mylan, President of Division 3 of the A. A. of S. & E. R. E. of America. Subsequent hearings were held in this case on October 7 and 8, 1918.

On November 19, 1918, the Commission entered an order permitting the petitioners to increase the rate of fare from five cents to six cents on said Elevated Railroads. This order limited the time that the six-cent fare should be in effect to December 1, 1919, unless otherwise ordered, and the Commission retained jurisdiction of the case for the purpose of modifying said order at any time, should conditions warrant.

It is true no notice was given the town of Cicero of the hearing of this application. This was an oversight on the part of the Commission. However, from the fact that such an application for an increase in rates by the Elevated Lines was pending, and that hearings were being held on said application, and was given wide publicity by the Chicago newspapers, it seems inconceivable that any town or village interested did not learn of the proceedings in this case before an order was entered. This is not suggested as any justification for not giving the town of Cicero notice, but simply to suggest that the town of Cicero was not injured thereby, because in all probability it was a matter of notoriety in the town of Cicero, and that the town officials and the public generally were advised of it even before hearings were held.

Mr. Talsted, President of the Board of Trustees of the village of Maywood, complained to the Senate Committee as follows:

(pp. 28-29) "About a year ago the Aurora, Elgin & Chicago Railroad, an electric line, which have an electric line running through Maywood, Illinois, filed a petition with the utilities company asking for permission to increase its rates. In other words, they filed a tariff which increased its rates with the commission and asked permission that that tariff might be put into effect. During the hearings and in the documents that were filed we noticed that the real estate of the company was very much overvalued, and we put expert real estate men on the stand to show that the value of that property, or the real estate of the company, was overvalued perhaps four or five or six times. Then we took this attitude, this position, with the Commission, that if their real estate was overvalued in that way, then that without question the balance of their property was overvalued, but that we were not experts on the value of electrical appliances and equipment and so we said to the Commission that we believed before it allowed any advance to this railroad company it should make a full and complete investigation—physical valuation of the property. And we still believe that should have been done. The Commission informed us that they would make a complete physical valuation of the property. Not-

withstanding that a few days later, or perhaps a couple of weeks later, an order was issued by the Commission permitting the Aurora, Elgin & Chicago Railroad Co. to advance its rates, and up to the present time, up to this date, the physical valuation of the railroad company's property has not been made, or, at least, has not been completed, so as near as we can learn, the work is still in a very embryotic condition or state. Was it fair for this Commission to allow the advanced rates to be put into effect? Could they tell whether they ought to be put into effect until they had learned the value of that property and learned the amount of money invested in that property, so as to know upon what amount interest must be paid?"

Statement of Public Utilities Commission as to above charge.

In the case above referred to, docket No. 7532, the petition of the Aurora, Elgin & Chicago Railroad Company for an increase in fares applicable to points on its line, including Maywood, was considered by the Commission. Several hearings were held at which the petitioner introduced testimony in support of the schedule filed by it. Exhibits were filed and testimony offered indicating the book value of the company's property. Such exhibits and testimony were not admitted in evidence by the Commission as showing the value of the property as a basis for rate making, but merely as showing for what it might be worth, the figures at which the property was being carried on the books of the company. It was shown that the company had operated at a deficit for the first four months of the year 1918, based on the latest cost figures available at that time. Their petition for increased revenue was upon the basis of seeking sufficient revenue to pay operating expenses rather than to provide for a return on investment. It was shown that the earnings of the company were actually less than the operating expenses for that period, leaving nothing for payment of bond interest or other return on investment.

Under these facts and circumstances the Commission considered that a physical valuation of the property of the company was unnecessary; that it would be expensive to make such valuation and would take many months to complete the case. In other words, the application was based on an alleged emergency, the basis of which was that the company was not earning operating expenses.

The Commission entered an order permitting the company to increase its rates to two cents per mile, that being the maximum lawful rate under the Illinois Maximum Passenger Fare law.

On February 6, 1919, the District Court of the United States, Northern District of Illinois (Judge Landis presiding), upon the bill filed by the company, held the fare of two cents per mile, provided by said Illinois Maximum Passenger Fare law, was confiscatory as to that road at that time, and entered a decree authorizing said company to increase its rates in an amount not to exceed three cents per mile, that being the rate charged by railroads under the control of the United States Railroad Administration.

Senator Glackin, of Cook County, in cross-examining Mr. Kelly, attorney for the Chicago Association of Commerce, appeared to be under the impression that a complainant living in Chicago would have to come to Springfield to be heard before the Commission. His question to Mr. Kelly, and the latter's replies on this matter, were as follows:

(p. 68) "Mr. Glackin (Cook): In reference to your remark that the common man can be heard. A man in Chicago would have to take a train and come to Springfield, wouldn't he?

Mr. Kelly: No; they sit in Chicago. I have appeared before them there.

Mr. Glackin (Cook): How often do they have hearings up there?

Mr. Kelly: I found them there a great many times when I go into the building.

Mr. Glackin (Cook): Do they have a permanent place?

Mr. Kelly: They have permanent offices there.

Mr. Glackin: In session all the time?

Mr. Kelly: In session constantly.

Mr. Glackin: About two or three times a month?

Mr. Kelly: No, they sit there constantly. And my understanding is the Commission will take the testimony where the testimony is desired to be given.

Mr. Denvir (Cook): You say they can go before the Commission and be heard?

Mr. Kelly: Yes, sir."

Statement of Public Utilities Commission as to above charge.

The Commission, practically ever since its organization, has had a permanent office in Chicago at 175 West Jackson Boulevard. The address of the Commission in Chicago is Room 714 Insurance Exchange Building, 175 West Jackson Boulevard.

In connection with said Room 714, and in the same suite, are eight other rooms. One is occupied by the assistant chief engineer of the Commission, whose headquarters is in the Chicago office; another room for investigators; one for the chairman, which is also used as a conference room; one for the Secretary, and other uses; one large hearingroom adjacent to said Room 714; and three other rooms, which are used by the Commissioners, respectively, for hearings and other purposes.

The Commission meets in the Chicago office the second and fourth weeks in each month, and calls the docket of all cases of every description involving matters arising in Chicago and all points in Northern Illinois, to which Chicago is more accessible by rail than is Springfield. At these calls of the docket a sufficient number of examiners, together with the commissioners, are present so that cases in which the parties are ready to proceed with hearings are heard at once. In this way the Commission serves Chicago and Northern Illinois as promptly and effectively as possible, and there has been no complaint

heretofore of inadequate facilities or unnecessary delays in disposing of matters arising in Chicago and Northern Illinois.

The Chicago office is open every day except Sundays and holidays throughout the year. The people of the State may obtain information at this office within the office hours at any time. Blanks are furnished to anyone requesting the same, upon which complaints and applications may be made with respect to rates, service, facilities, etc., of any utility, by calling upon or writing to the Commission at said office.

There are received at this office complaints and petitions, both formal and informal, involving utility business in Chicago and Northern Illinois, and every facility is afforded for the handling of the business of the Commission arising in Chicago and Northern Illinois.

Mr. Davidson, attorney for the Greenville Chamber of Commerce, stated in part as follows:

(p. 78) "Just another thing or two. There is no precedent by which this Commission can act. They have no precedent. I know of an instance in my town where the secretary was called up here by the Commission. There was a rehearing set and the city of Greenville were making arrangements to meet it and to present their case and we got notice the thing had been indefinitely postponed, although there was an order then existing to charge us extra rates. And when the mayor called up the secretary of the Commission and said: 'Is this not a little unusual? Courts don't do this.' He said: 'This is not a court of law.' He was correct. They know no bounds; they know no precedent. I have nothing personally against the men. I know no gentleman on the Commission. I want to say that. They are undoubtedly all reliable men."

Statement of Public Utilities Commission as to above charge.

The conversation referred to by Mr. Davidson relates to case No. 8054, which involved the rates for municipal pumping service at Greenville and O'Fallon. This service is furnished by the Southern Illinois Light and Power Company. The rates were adjusted by an order of the Commission entered on July 31, 1918. The utility company was not satisfied, however, and on October 24, 1918, filed a supplemental schedule, setting forth increased rates for said municipal pumping service. The Commission, on November 19, 1918, entered an order suspending the increased rates.

The case was set for hearing for February 10, 1918, and notices were sent to the company and to the mayors of Greenville and O'Fallon.

On February 4th the Southern Illinois Light and Power Company wrote the Commission, requesting that the hearing be postponed, as follows:

In view of the fact that we are taking this matter up with these interested cities, and endeavoring to effect an adjustment with them rather than let the matter go to formal hearing, our purpose being to keep these cities satisfied and avoid any ill feeling toward our Company.

A continuance was granted, and on February 7th all parties interested were notified of that fact.

On February 10th the mayor of Greenville telephoned the office of the secretary of the Commission and inquired why this case had been continued without his consent having first been obtained. He was told it was usual for the Commission to allow a continuance of the first setting of any case upon the application of any party interested, if made in apt time and for good cause. The mayor answered that it was customary in justice courts to consult with all parties before a continuance was granted. The secretary's office replied that the Commission did not follow the practice prevailing in justice courts but endeavored to be reasonably liberal in the matter of continuances.

The mayor was further advised that if he desired an early hearing held in this case his request would be given consideration. Up to this time, however, he has made no such request and in the meantime the proposed increased rates for pumping service are under suspension, as the company has not asked that the case be reset.

Cases that are not ex-parte are never continued upon the application of one party without the knowledge and consent of the other, except in cases such as this, where the petitioning party advises the Commission that it does not wish to press its petition for advanced rates because of a prospect of satisfactory adjustments between the parties. That is the thing which caused the Commission in this case to advise all parties that the case was continued. Where there is a prospect of the parties getting together in a controverted matter the policy of the Commission, as a general rule, has been to give them an opportunity to do so, and that was the purpose of continuing this case upon ex-parte suggestion.

Specific complaints and charges made to the Senate Committee on Public Utilities against the Public Utilities Commission at the meeting of said Senate Committee at Springfield, March 18, 1919.

Robert L. Watson, attorney for the Municipal Home Rule League, stated in part as follows:

(pp. 14-15) "Now, strange to say, there are a number of mayors and city attorneys and aldermen within the sound of my voice, who seem to think that a contract which a city makes, whereby it gets good value for the use of its streets or something else, should be binding on the other party as well as on itself, and it is hard for us to get away from that idea. They think that if a utility makes a contract for ten years to furnish, we will say, street cars, street car service, electric service or anything else, at a certain rate, and prices go down, that the utility should have the benefit of that; that is, that they should be able to pay a higher rate of dividends on what they have got actually invested, and we are foolish enough to think that. And on the other hand we believe it is good business, when prices go up and the margin is low, then the investor should take a lower rate on his money invested. We believe that is good business; we believe that is right."

Statement of Public Utilities Commission as to above charge.

With reference to Mr. Watson's statement that rates agreed upon by a municipality and a public utility for a term of ten or twenty years should be binding and that rates so fixed should not be changed during that period, the law on this proposition was first established in this State in a case in which a city made a bad bargain with respect to rates to be charged by a water company for a period of thirty years.

Reference is made to the case of *City of Danville* v. *Water Company*, decided February 17, 1899, and reported in 178 Ill., 299.

In that case the rates agreed upon by the city and the water company which were embodied in a franchise ordinance were paid without protest for about twelve years. At the end of that time the city of Danville attempted to reduce the rates to meet the changed conditions then existing. In the litigation that followed the water company contended that the franchise ordinance which had been accepted and acted upon by said company constituted a valid and binding contract, protected by the Constitution of the United States, and that the rates fixed in said ordinance could not lawfully be disturbed. In overruling this contention of the water company the Illinois Supreme Court used the following language:

(p. 312) "If the rates were to be fixed by ordinance, they could only be fixed by such ordinance as was legal and whose passage was within the power of the council. A legislative body cannot part with its powers by any proceeding, so as not to be able to continue the exercise of such powers. It has no authority even by contract to control and embarrass its legislative powers and duties (Greenhood on Public Policy, p. 317; Cooley's Const Lim., p. 206; 15 Am. & Eng. Ency. of Law, p. 1045; 1 Dillon on Mun. Corp., sec. 443). What might be proper for a city this year might not be proper the next year. It is impossible to determine with absolute or even tolerable certainty what changes a few years might work in the character and reasonableness of rates to be charged for water supply. No contract is reasonable by which the governing authority abdicates any of its legislative powers, and precludes itself from meeting, in a proper way, emergencies, or occasions that may arise. 'These powers are conferred in order to be exercised again and again, as may be found needful or politic, and those who hold them in trust today are vested with no discretion to circumscribe their limits or diminish their efficiency, but must transmit them unimpaired to their successors. This is one of the fundamental maxims of governments; and it is impossible that free government with restrictions for the protection of individual or municipal rights could long exist without its recognition.' (Gale v. Kalamazoo, 23 Mich., 354; Millikin v. County of Edgar, 142 Ill., 528)."

This decision was affirmed by the Supreme Court of the United States and is reported in 180 U. S., 619.

The cities of Rogers Park and of Freeport also had similar experiences with their respective water companies at about the same time, and in the litigation that ensued the Illinois Supreme Court adhered to its decision in the Danville case (See Rogers Park Water Co. v. John B. Fergus, 178 Ill., 571; Freeport Water Co. v. City of Freeport, 186 Ill., 179).

The principles enunciated in the above cases have become the settled law of this State.

Mr. Watson further said (p. 20):

"But I was going to say about that District F, in that hearing a very estimable gentleman whom I will not name testified on behalf of his corporation, that they had an investment of $780,000 in that district—no, $278,000; I beg your pardon; they had an investment of a trifle over a quarter of a million dollars in that district, but I think he spilled his conscience somewhat then, because then he was endeavoring to get a higher rate. Shortly thereafter we obtained permission to examine their files, and we found that prior to that time, towit, on the 31st day of May, 1915, they had in their statement of assets and liabilities for District F, $100,000 preferred stock on the liability side; $200,000 common stock; $200,000 odd, first bonds first mortgages; two hundred thousand and some odd dollars gold debentures; $228,000 Mid-West securities; two hundred thousand odd to somebody else, and in all making a million and seven thousand dollars that they had charged up to that district which they were asking us to pay a dividend on, when out of their own mouth they said that they had but $278,000 invested. Now, if you do not think that is so, you go down to the city of Aledo and you go over on Fifth street opposite the Merchants Hotel, and you go in there and ask them to look at their books, and if they will let you do it, that is what they will show; and on the other hand, if you want the testimony as to what they testified as to the value, you will find that in the office of the Commission here in Springfield. That is only one instance."

Mr. Watson also stated (pp. 24-25):

"Now, it is very difficult to get at the actual investment, but one way to get it is the property inventory, and in a case that was heard here recently wherein the question of raising the rates was concerned, the report of the engineer of the Commission was that he had made a property inventory. Yes, he had made a property inventory, and how had he done it? Well, he said—now I think it was at Jerseyville there, they have a plant there we will say half as big, that is, they have half as many acres, half as many consumers—well, he said, 'I have gone over the district carefully, I know how their property is estimated and I am advised about that.' Very well, if Jerseyville had 1000 consumers and District F had 2000, therefore Jerseyville would have half as many poles, and therefore they would have half as many cross-arms, and therefore they would have half as many miles of wire, and therefore they would have half as many glass knobs, and therefore they would have half as many meters and buttons and pins and lead pencils and other things. Now, actually, that is a fact, right here on record in this building, of how the estimate was made on that district. He went down there, drove through there, looked it over temporarily, and it also covered a heating plant, and when that gentleman was confronted with pictures of that heating plant and asked if that was the plant, he didn't know but what we were flashing some other plant on him, and he was afraid to say whether it was it or not. He did not look over that plant enough to know whether he could recognize a picture of it. Now, all of these things are of record right up here in different cases, and any man who wishes to look for them,

I will give you the cases, or I will give you the dates if you want them."

Statement of Public Utilities Commission as to above charge.

In the above statement Mr. Watson says in substance that the balance sheet of the Illinois Northern Utilities Company shows stocks and bonds outstanding to the amount of $1,007,000; that in a rate hearing before the Commission a witness for the utility testified that said company had an investment of $278,000, but nevertheless the company was seeking rates that would enable it to pay dividends on the $1,007,000 of outstanding stocks and bonds.

While Mr. Watson does not say so directly, it might be inferred from his statement that the Commission allowed rates sufficient to allow a return on this $1,000,000 of securities.

Evidently Mr. Watson refers to case No. 7832, which was an application by the Illinois Northern Utilities Company for an increase in electric rates in portions of the counties of Mercer, Henry, Warren and Knox.

In this case an exhibit marked "Alexander's Exhibit F" was offered by the company and admitted in evidence. This exhibit shows that according to the books and records of the company there had been expenditures made for *additions* and *betterments* to the *electric property* in district F since the acquisition of said property by the interests now controlling it, in 1912, of $278,628.49. In other words, this exhibit showed the amount that the Illinois Northern Utilities Company claimed had been expended by it, and its predecessor, the Tri-County Light and Power Company, in additions and improvements to the *electric* property in this district, exclusive of the value of the existing plant that was acquired in 1912, and exclusive of the value of the steam heating plant owned by the company at Aledo.

In fixing rates the Commission has never been governed by the amount of securities outstanding in this or in any other case. The Commission's experts are capable of estimating the actual cost of such property. In the case above referred to a temporary rate increase was granted, effective June 1, 1918. This order provided that if the Commission, after completing its valuation and investigation of the company's property, should fix lower rates for electric service than the temporary rates therein authorized, the company should, within thirty day from the time said lower rates became effective, refund to each consumer all amounts, including interest at six per cent per annum, collected by it in excess of the sum that would have been collected had the rates finally determined been in effect during the period that the temporary rates were collected.

Since that order was entered the Commission's engineering staff has valued this entire property at $320,000 and a final order in this case is now being drafted.

Again Mr. Watson stated (pp. 26-27):

"We have contributed to the Red Cross, the K. of C., the Y. M. C. A. and all that, we have dug down in our pockets and we are proud

of ourselves in the State of Illinois in the way we have carried on this war proposition, and while we have been doing that, here is this corporation in Rockford—and others, that have not so much as lifted their little finger; if they gave anything to the Red Cross they charged it in their expense accounts; if they bought any bonds they put them on the market and sold them; if they gave anything to the Red Cross they take the credit for it and charge it in the expense account, and and you will find it in the expense account on file here in this Capitol. Instead of that, they were asking us to lift more; they were not willing to go ahead with a little more than the profit they had last year, but they were asking for an increase, and have received an increase which they say will net them a million more than they got last year."

And on this same subject, W. J. Spaulding, City Commissioner of Springfield, said (p. 39):

"Another matter that has been referred to, but I don't think it was emphasized as strongly as it should be, and that is that the companies are allowed in the expense account for advertising, and here is the way it works out. The companies will raise the rates and then they will take out of us, out of the rates enough money to pay for advertising with deceptive and delusive ads making us try to like it, and furthermore, they are provided with money for charity, and when the Y. M. C. A. and the Y. W. C. A. and various charities are to be supported the utility companies get credit for it, and we are the ones to pay the bill, and we don't have any say about how the money shall be distributed."

Statement of Public Utilities Commission as to above charge.

In the uniform system of accounts, prescribed by the Commission for use by all public utilities in this State, the Commission directed that payments made for advertising, for charitable purposes, etc., should be shown in certain accounts. In its order, making effective said accounting rules, the Commission, among other things, said (p. 6):

"In prescribing this system of accounts the Commission does not bind itself to approve any item set out in any account, either as to amount or character, for rate fixing purposes or when authorizing the issuance of securities. The prescribed system of accounts is designed to set out the facts in connection with the income, expenditures, etc., and therefrom the Commission will determine, when engaged in fixing rates or approving issues of securities, just what consideration shall be given to the various items in the several accounts."

With respect to war charities, donations, such as contributions to the Red Cross, the Y. M. C. A., K. of C., and other similar agencies, the practice of the Commission has been to eliminate all such items from the operating expenses of any utility whose rates are being adjusted. This is done on the theory that such donations should be bourne by those who participate in the profits of the business, and should not be included in operating expenses that are to be used in fixing rates.

If donations made by the corporation (the utility) were allowed by the Commission by charging same to operating expenses, the result would be that the consumer would pay such donations in the payment of rates for service. Such donations are never so handled by the Commission as to result in the payment of same by consumers or patrons. On the contrary, they are always eliminated from the operating account as items which should not be paid by the consumer, but which must be paid out of net return, which means that they are paid by the stockholders of the corporation.

Mr. Watson and Mr. Spaulding, in giving your honorable Committee the impression that the records of the Commission show such donations charged to operating expenses in rate cases, are laboring under a misapprehension. There are no records which show any such thing, as the Commission has not at any time indulged in any such practice. With all due respect, the Commission cannot refrain from making the suggestion that such statements are reckless and wholly unwarranted.

Mr. Spaulding also stated (p. 44):

"And here is a comparison that is worth reflecting on a little. Here is the Home of the Friendless, a charitable institution that has to depend on donations for its support. Their electric light bill was $26.75. Using the same amount of current, on the same basis of figuring, the Federal Building here in Springfield would have been charged $13.18. A little less than half of what the Home of the Friendless was charged."

Statement of Public Utilities Commission as to above charge.

The Springfield Gas & Electric Company filed a schedule with this Commission setting forth a rate to be charged the United States Government for electric lighting and power service in all buildings owned or occupied by it. This schedule was neither approved nor disapproved by the Commission and became effective at the end of thirty days from the date it was filed.

The reasonableness of the rate stated in said schedule has never been challenged, and no complaint that said rate has proved discriminatory has been made to this Commission. If such complaint were made as to this or any other rate, the Commission would, of course, hold a hearing and determine the question.

It might be argued that any rate to the Federal Government could not be discriminatory, as the government is in a class by itself, and a low rate to it would inure to the benefit of the public rather than to its injury.

However, at the present time the Federal Building in Springfield is being furnished electric current from the municipally owned electric plant, of which Mr. Spaulding has general supervision.

We find, upon investigation, that the Home for the Friendless has been charged for electric current on what is known as the "Consumers' Lighting Rate Schedule", and that its electric bill for the last year was $254.79. Considering the amount of current it uses,

this institution has the right to take current on the basis of what is known as the "Contract Consumers' Lighting Schedule", and on that basis its rate for the same amount of current would be $225.78. The benefit of this latter rate schedule has now been offered to the Home for the Friendless.

Duncan McDonald stated in part as follows (pp. 47-48):

"I have no desire to criticize the members of the State Utilities Commission, but I am going to point out one or two concrete illustrations. Some time ago we complained about our gas rate here, and we complained about our electric rate, our electric light rate. We attempted to show that the rate was entirely out of proportion to the earnings of the company and we are the victims of the same concern that operates these public utilities in many different cities, the Hodenpyle-Hardy syndicate of New York.

"When this complaint was made we had the matter go up in the regular way to the State Utilities Commission and were granted a reduced rate. The company then by right they had under the law, appealed the case, I believe, to the Circuit Court, and we are still waiting to hear from there to get this money back. Now, I am not very old. I had to register in the recent draft, but I would like to get that money back before I shuffle off, and I don't see any immediate prospect if the present arrangement is going to be continued."

Statement of Public Utilities Commission as to above charge.

The case referred to by Mr. McDonald is entitled *City of Springfield* v. *Springfield Gas & Electric Company*, docket No. 2138. This was a complaint by the City of Springfield that the gas rates of the utility company were excessive. The Commission held several hearings on this complaint and valuations of the property were submitted by the city, the company and engineers for the Commission.

On March 9, 1916, the Commission entered an order reducing the rates for gas from one dollar to eighty cents per thousand cubic feet.

On March 28, 1916, the Gas Company served notice of appeal upon the Commission.

On April 4, 1916, the Commission filed a certified copy of the record in this case with the clerk of the circuit court of Sangamon County.

On April 6, 1916, on motion of the utility company, said circuit court entered an order staying the operation of the order of the Commission and requiring the Gas Company to deposit with a local bank, as a trust fund, all moneys collected in excess of the rates fixed by the Commission's order, said moneys to be turned back to the gas consumers in event the order of the Commission is sustained by the courts.

On January 3, 1918, the final arguments were made in the circuit court, and the case taken under advisement, but up to this time there has been no decision by said circuit court.

The delay of this case in the circuit court is, of course, a matter entirely beyond the control of this Commission.

The action of the circuit court of Sangamon County in sustaining the motion of the Springfield Gas & Electric Company for a stay order rendered it impossible, under the Public Utilities Act, for the Commission to enforce its order. Since that date the Commission has been without power to do any act with reference to said case and without responsibility for the long delay in the circuit court.

Evidently Mr. McDonald, in making this criticism against the Commission was laboring under a misapprehension of the facts and of the law. The Commission feels that if Mr. McDonald had had a correct understanding of the facts and of the law he would not have criticised the Commission.

Mayor McConchie of Rock Island, speaking with reference to a street railway case pending before the Commission, stated in part as follows (pp. 58-59):

"Well, we went to Chicago, like a man going to the gallows, with fear and trembling. We got up there into a large court room where all the cases were on the docket, and we were ordered to meet in a certain room on the same floor of that building at 1 o'clock; we happened to get there a little before the time, and the door was not open, and we were all crowded in a little narrow hall, all strangers to each other, except our friends from East Moline and Silvis, and Mr. Shaw was there; he was the commissioner who was to hear our case, and I heard one gentleman—and several of our people heard him—pleading with Mr. Shaw to hear his case first. 'Well,' he says, 'I will hear you in just five minutes, sir; Rock Island is the first on the docket, but we won't take five minutes to that, there is nothing to it; we are going to grant the request of the petitioners and give them a 7-cent fare.' Well, we were naturally amazed, and when we got into that hall, when the door was opened, we made such a howl and such a noise that Mr. Shaw did not grant it in that five minutes, he didn't grant it that day and he has not granted it yet, and we hope to see him out of office before he ever gets a chance to grant that request."

Statement of Public Utilities Commission as to above charge.

Mr. McConchie's charges relate to case No. 8541, which involved, among other things, a proposed increase in street car rates in Rock Island.

The hearings in this case, at Chicago, were before H. M. Slater, Transportation Rate Expert of the Commission, in room 738.

On the day that this Rock Island case was heard there was another case also assigned to Mr. Slater for hearing. This latter case, (No. 8385), it appeared to Mr. Slater would take but a short time to try, so he announced that that case would be heard first.

The Rock Island case was therefore not taken up until 1 p. m. The hearing was conducted in the usual way by Mr. Slater. He made no statement to any one that the case would only take five minutes and that the request of the petitioner would be granted and it would

be given a seven-cent fare. Mr. Slater knew the case would involve a lengthy hearing and therefore postponed taking it up until the shorter case could be heard.

Mr. Slater was sitting as examiner in hearing this case and of course had no power or authority to decide the case, that being the function of the Commission.

Commissioner Shaw did not participate in any way in the hearing of this case; he was not in the room at any time while it was being heard; and at no time nor place did he make any such statement as Mr. McConchie charges him with.

Mr. Scott, city attorney for Rock Island, stated in part as follows:

(pp. 60–61) "Let me give you one example of what occurred in a meeting before this Utilities Commission in Chicago. We were up there on the question of a gas rate; we reposed the same confidence that other municipalities do in the integrity of the engineers of the Commission. We went in there, and one of their head engineers, Mr. Little, came in with a report, a long typewritten report that took our breaths away, and we were wholly helpless before it, we knew nothing about it. If it were a mere matter of legal points I might have done something, but there we sat, helpless; they were asking us for a raise from 85 cents to one dollar for gas; I had not the slightest information on earth what the report would be, but our friends, the enemy, appeared very comfortable and self-satisfied, and they sat there apparently without much feeling of misapprehension. Mr. Little testified for two hours, as corroborated by his evidence, and he arrived at this amazing conclusion, after a complete and full investigation, he arrived at the amazing conclusion that the Utilities Company was not asking for enough, that in fact, as a result of his investigation, they were losing 6 cents, or losing more at the burner than they were asking people to pay for the gas. Now, that conclusion is utterly preposterous and impossible on the face of it. Either one of two things: That engineer was not sincere, truthful or right in that report, or else these men, who had been running that utility for all these years, were a set of fools and imbeciles, and nobody up to this date has ever accused them of being that. This man deliberately sat there and said, 'you are not asking for enough,' an utterly impossible situation, and what could we do in the face of that?"

Statement of Public Utilities Commission as to above charge.

On April 8, 1916, the city of Moline filed complaints of excessive charges for gas and electricity furnished by the Peoples Power Company. These complaints were docketed under Nos. 4904 and 4905, respectively, and heard on May 2, 1916. A preliminary order requiring the company to file a complete inventory of its property and a detailed statement of income and operating expenses, was entered on May 11, 1916. On the following day the city of Rock Island filed a similar complaint requesting similar action by the Commission.

On May 25, 1916, the city of Moline and the Peoples Power Company appeared before the Commission and joined in a motion for the dismissal and the cancellation of all orders heretofore made, together with a stipulation in which rate schedules for both gas and electric service were agreed upon. A similar motion and request was filed jointly by the city of Rock Island and the said company on the same date. These schedules, in accordance with the joint request of the parties, were permitted to become effective in Moline and Rock Island, respectively, as of July 1, 1916. While the schedules permitted to become effective resulted in reductions for both gas and electricity, the reduction applicable to gas was substantially fifteen cents (15c) per thousand cubic feet, or a reduction from one dollar ($1) to eighty-five cents (85c) net.

The reduction of rates obtained at this time, while a matter of stipulation between the respective cities and the Peoples Power Company, was the result of prompt action taken by the Commission in requiring the company (by order) to file a complete inventory, etc. In the case of the city of Rock Island, the reduced rates were made effective in less than two months after their complaint was filed.

On January 9, 1918, the Peoples Power Company filed a petition setting forth that on account of the abnormal conditions brought about by the war, an increase of fifteen cents (15c) per thousand cubic feet for gas furnished in Rock Island, Moline, East Moline and Silvis, was necessary. The new schedule of rates filed was substantially the same as was in effect previous to the reduction.

At the initial hearing on this petition the company submitted an appraisal of its property together with evidence here (and statements) as to its total gross income and operating expenses. The value of the used and useful property, according to the statement submitted by the petitioner, amounted to one million, six hundred sixty-six thousand, seven hundred ninety-six dollars ($1,666,796).

Following this hearing the Commission instructed its engineering staff to make an investigation of the property and records of the company. The result of this investigation was presented by A. S. B. Little, Gas Engineer of the Commission, as "Engineer's Exhibit 1," at a hearing held in Chicago on April 23, 1918. Engineer Little was cross-examined on his report at this hearing by counsel both for the company and the city of RockIsland. At the close of the hearing J. K. Scott, city attorney of Rock Island, consented to the entry of a temporary order by the Commission, pending an investigation by the city; counsel for the city to notify the Commission when it was ready to proceed.

In the meantime, the Commission, for the purpose of determining just and reasonable rates, found from all the evidence in the case a property valuation, for the purpose of this proceeding, of one million, four hundred fifty thousand dollars ($1,450,000). This finding was based upon what the Commission believed to be the actual investment.

The Commission further found that the total amount required to cover the annual operating expenses, return upon the fair value of the property, and accruing depreciation was four hundred forty thousand,

five hundred eighty-eight dollars ($440,588), or equivalent to $1,049 per thousand cubic feet of gas sold. By applying the rate asked by the company it was found that the revenue would amount to four hundred twenty-nine thousand, two hundred thirty-nine dollars ($429,239), or approximately eleven thousand dollars ($11,000) less than the amount which would be produced, if the rate of $1,049, tentatively found by the Commission during investigation had been applied.

The position taken by the Commission was that the public should not assume all the burden due to the war, and for that reason it was found that the rate petitioned for by the company, which did not exceed one dollar ($1) per thousand cubic feet, was just and reasonable and should be permitted to become effective.

In accordance with the understanding at the conclusion of the last hearing, at which City Attorney Scott appeared for the city of Rock Island, the Commission fixed a temporary rate effective for a period of not more than one year, and at the expiration of that time the original rate of eighty-five cents (85c) per thousand cubic feet would automatically go into effect unless otherwise ordered by the Commission.

The order of the Commission in this case, advancing the rate, temporarily, from eighty-five cents (85c) per thousand cubic feet to one dollar ($1) per thousand cubic feet, was to meet the abnormal operating expenses due to the war, and it should be noted Mr. Scott's statement contains no reference to this very important fact.

City Attorney Carey, of Decatur, among other things, said:

(p. 64) "I think I may safely say that they are perhaps a year behind right now, and when people want relief they don't care to put in a petition before the Utilities Commission and wait a year before they can have a hearing upon it."

Statement of Public Utilities Commission as to above charge.

Mr. Carey's intimation that it is necessary to wait a year after the filing of a petition before a hearing can be had before the Commission is emphatically contrary to the facts, which are that generally every petition filed with the Commission is set for hearing within thirty days after the date of filing. If Mr. Carey based his statement upon the experience of citizens of Decatur interested in proceedings before the Commission, his statement is also considerably at variance with the facts.

Case No. 4698 was a petition filed by Phillip Overstreet, representing residents and employees in East Decatur, against the Decatur Railway & Light Company, seeking an extension of street car service. The petition was filed February 18, 1916; heard by the Commission on April 5 and 21, 1916; and an order was entered by the Commission on May 4, 1916, directing the extension of street car service.

Case No. 7607 was another petition for extension of street car service filed by George Weatherby, et al., against the Decatur Railway & Light Company. This petition was filed December 22, 1917, and on account of some difficulty relative to the manner in which the petition was drawn the case was not set for hearing until March 5, 1918. This

hearing was continued until April 17, 1918. An amended petition was filed May 4, 1918, and the case was further heard July 16, 1918. Final briefs were not filed until September 14, 1918, and the Commission entered an order, requiring an extension of service, on February 5, 1919.

Case No. 7482 was a petition for separation of grades filed by the city of Decatur against all of the railroads entering that city. The petition was filed December 14, 1917, and was dismissed along with several other cases of similar nature on March 20, 1918, this action having been taken by the Commission in response to urgent requests of the United States Government that only the most essential improvements should be ordered during the period of the war.

Case No. 7990 was a complaint filed by E. L. Wheal, et al., against the Wabash Railway Company relative to a grade crossing in East Decatur. This case was filed April 8, 1918, and no action was taken by the Commission on account of the confusion existing relative to the jurisdiction of the Commission on account of the taking over of the railroads by the Federal Government. When this matter was in part satisfactorily adjusted, early this year, the case was set for hearing on February 4, 1919, and at the conclusion of the hearing on that date the case was continued for further hearing.

Hearings upon many applications, petitions and complaints are heard well within thirty days. Whether such applications, petitions or complaints are set for hearing within thirty days depends upon many things: The volume of business pressing upon the Commission for immediate attention, number of cases on the docket, the convenience of parties, etc.

Continuance of hearings are granted in numerous cases, particularly in rate hearings involving applications of utilities for increases. In such cases the applicant usually presents tabulations and exhibits that are intricate and sometimes meaningless to the layman, and cities, villages, or other organizations, appearing in such cases for the consumers or patrons, apply for and are given ample time to study such tabulations and exhibits, sometimes with the aid of experts and attorneys employed by them, and sometimes with the aid of the Commission's experts. Important and intricate cases are frequently continued for a study by the Commission's experts to aid cities and villages and organizations or associations representing consumers, where the latter have no experts nor money to employ them. In the instance last mentioned, where request is made for it, the Commission always assumes the burden in behalf of such interested parties. In a good many cases there are numerous parties and interests represented and dates for hearings have to be fixed to accommodate all of the parties to the proceeding, if possible. In all such cases, and under such circumstances, delays are unavoidable, and in a great majority of instances for the convenience and in the interests of consumers or patrons of public utilities.

Mr. Baker, city attorney of Shelbyville, among other things, said:

(pp. 80-81) "We have a contract with the City Water Company of Shelbyville, Illinois, which is an English owned concern, and the

property holders all live in England. Our contract is for a term of twenty years. When fourteen years of the time had expired the company made an application to the Public Utilities Commission of the State of Illinois substantially doubling rates that were provided for by this contract. The contract specifically states it is a contract between the parties upon the faith of which each party undertakes to perform the various things they were obliged to perform by the terms of that contract, and one of the things was that the rate shall not exceed a certain maximum. They began in its inception to charge the maximum rate and continued to charge it for fourteen years and then made application to the Utilities Commission to practically double the rates. The result of the hearing was this, and I want to say, gentlemen, that I am blaming no member of the Commission; I could blame no member of the Commission for the outcome of that case because no member of the Commission was ever present while the hearing was had. It was heard by some gentleman that I never heard of before, I haven't seen since, and I don't know what his official capacity was, but the result of the hearing was this: The rates were substantially doubled. The hydrant rental to the city of Shelbyville was increased something in the neighborhood of a thousand dollars a year. The finding was given out on the last day of July to become effective on the 1st day of September of 1918.

Our annual appropriation ordinance had been passed. We had appropriated, as required by law, the sum that we expected to spend for water. We have levied the same amount in July. The Utilities Commission ordered that we pay a thousand dollars more than that, and upon our failure to pay we were penalized five per cent for not being able to pay it when we could not pay it. We had no way of paying it."

Statement of Public Utilities Commission as to above charge.

With respect to the contract that Mr. Baker mentions that existed between the city of Shelbyville and the Water Company fixing rates, the Public Utilities act, as adopted in 1913, and as it now stands, reposes with this Commission the power, and charges it with the duty of determining just and reasonable rates. Pursuant to that power and that duty, the Commission, in case No. 7150, entered upon an investigation and determined the just and reasonable rates to be charged by the City Water Company of Shelbyville.

The Water Company applied for an increase in rates on August 20, 1917. Final order of the Commission in this case was entered on July 31, 1918, and prescribed rates to become effective on September 1, 1918.

The hearing in this case was conducted by Mr. C. M. Tinney, examiner for the Commission; it of course being impossible for the Commission personally to hear all cases brought before it.

The Commission found the value of this water plant to be one hundred and ten thousand dollars ($110,000). This valuation was based upon an inventory and appraisal made by an employee of the Water Company, and also an appraisal of the physical property made

by the Commission's engineering staff, which latter appraisal was on the original cost basis.

The record showed that under the rates then being charged the net revenue—amount available for interest or return on investment—was about one thousand, six hundred dollars ($1,600); that the only interest being paid was five per cent on twenty thousand dollars ($20,000) of first mortgage bonds. No interest was being paid on some ninety thousand dollars ($90,000) of second mortgage bonds outstanding.

The old rates of this company were very low, but the consumers were required to furnish their own meters. The rates established are about the average for a town of the size of Shelbyville. The Commission's order directs the Water Company to purchase the meters of the present consumers, and provides that in the future all meters shall be furnished and maintained at the expense of the Water Company.

As to the hydrant rentals, the record showed that the city was not paying a fair share of the operating expenses and investment charges in hydrant equipment, and that an equitable distribution of the required revenue between private service and service to the city necessitated that the city pay an increased hydrant rental.

With respect to the criticism that the hydrant rental rates were increased subsequent to the adoption of its appropriation ordinance by the city, suffice to say that the water rates of this company were under consideration from the latter part of August, 1917, to July 31, 1918, all of which was known to the city, as it was represented at the various hearings. It therefore had ample opportunity to provide funds with which to pay an increased hydrant rental that might be determined by the Commission.

An appeal from the Commission's order in this case was taken by the city of Shelbyville, but was dismissed on October 21, 1918, for want of prosecution.

ADMINISTRATION OF THE LAW.

The Public Utilities Commission, created as a division of the Department of Trade and Commerce by the Civil Administrative Code, effective July 1, 1917, succeeded to the rights, powers and duties vested by law in the State Public Utilities Commission under an act entitled, "An Act to provide for the regulation of Public Utilities," approved January 30, 1913, in force January 1, 1914, or any future amendments thereto or modifications thereof. The Civil Administrative Code further provides that:

> **Said Act and all amendments thereto and modifications thereof, if any, shall be administered by the Public Utilities Commission created by this Act, and in its name, without any direction, supervision, or control by the Director of Trade and Commerce.**

The Public Utilities Commission, of Illinois, is passing through its probationary period. It is in a sense unfortunate that this period should have come at a time when the country was engaged in a world war. Illinois is now experiencing only what other sates which preceded her in the establishment of regulation by state commissions have experienced. For the most part, those states have passed through the

period of reaction against state conrol with the very general result that commission regulation has been extended and reinforced.

The present opposition to the Public Utilities law of Illinois, growing out of the desire for "Home Rule," is not unlike that also experienced in other states during the early years of state commission regulation in those states. The present situation in this State is greatly aggravated, however, and the opposition is intensified because of the abnormal war conditions which have made many rate increases necessary, temporarily, during the past year and a half. Most of the objection to the non-observance of so-called "ordinance contracts" or "franchise contracts" is a result of these recent rate increases, which, in some instances, exceed the rates provided for by ordinance. So long as the Commission reduced rates, even when fixing a rate lower than that provided for by ordinance, no objection of this kind was raised by the municipalities of the State. For these reasons the whole situation should be viewed as primarily due to war conditions.

The Commission does not deem it proper to enter into an extended discussion of the relative merits or demerits of regulation by a state commission, and regulation by municipalities. It does not deem it within bounds of propriety to do more than to refer briefly to its work and to the abnormal conditions prevailing during the past eighteen months, which in a large measure have influenced its action.

In General.

Every state in the Union, except Delaware, now has a state commission exercising some degree of control over public utility companies. Such regulatory bodies have also been established in the District of Columbia, Hawaii, and the Philippine Islands. No Commission has ever been abandoned and none has suffered any withdrawal of the fundamental powers or jurisdiction thereof. On the contrary, the jurisdiction and powers of most of the state commissions have been greatly extended within the past decade. In other words, the uniform tendency has been to extend, rather than to restrict, the powers and jurisdiction of the public utilities commissions of the various states. The powers and jurisdiction of these various state commissions are not identical, but to whatever extent they go are quite similar. In a few states, either through direct statutory provision or by court decision, the commission has no power to set aside the terms of franchise ordinances. In the large majority of the states, however, the commission has the sole power to fix rates. The general situation as it exists today throughout the country is an emphatic endorsement of state regulation as opposed to local control over public utilities.

Illinois Legislative Public Utilities Committee.

As a result of the general agitation throughout the State for the establishment of some definite form of public utility regulation, the Forty-Seventh General Assembly created a joint committee to investigate public utilities, known as the Illinois Legislative Public Utilities Committee. Much of the report of that Committee is apropos in the present discussion relative to proposed amendments to the law. Among other things, that report says:

The creation of a committee to investigate the desirability of a public utility law for the State of Illinois was born out of a desire to render a substantial and lasting service to the people of this State. In the last decade there have been various attitudes of public opinion toward public service corporations. Some years ago the disposition of municipal councils and bodies granting franchises was to stimulate the development of utility companies by granting extensive rights and privileges, with little regard to future conditions, and with little complaint on the part of the public. In many cases these grants were honestly but mistakenly made; in other cases they were subject to suspicion of corruption. The people have witnessed abnormal and unreasonable profits derived by utility corporations, out of the delegation of franchise rights that originally belonged to the people; they have witnessed the evils of the issuance of fictitious securities, and exactions from the public resulting from watered securities, in the form of inadequate service or extortionate rates. In many instances they have witnessed a contemptuous disregard for the rights of the public, unmindful of the fact that these companies owe their right to exist and do business to the State and the municipality. Primarily, there are interested in these questions the great public itself, the patrons of the utility concern, and, finally, those having capital invested therein.

Its investigation took the Illinois Legislative Public Utilities Committee through the State of Illinois, visiting twenty-nine municipalities. The Committee also visited some of the principal states in the Union, holding joint meetings with public utilities commissions of these states. The investigation was exhaustive.

The Committee made its recommendations in the following manner:

After an exhaustive inquiry on this subject in Illinois and in other states in the Union, your committee is firmly convinced that State regulation of public utilities would bring the best service to the citizens of Illinois.

A majority of your committee believes that there should be but one commission for the entire State exercising jurisdiction over all utilities enumerated in the bill presented herewith.

Your committee is strongly opposed to two commissions for reasons heretofore assigned and for the further reason that two commissions would inevitably lead to conflict of authority. Single utilities companies extending beyond the limits of a municipality would in all probability be subject to the conflicting orders and policies of two commissions. Two commissions would make uncertain the decisions of the commissions, since in rendering opinions upon same subjects, they would frequently disagree or pursue different policies and therefore, like opinions of the Appellate Courts of this State, their findings would not serve as precedents but would lead to constant embarrassment of both municipalities and public service corporations.

In this connection it seems pertinent to inquire what would be the general effect of the adoption of the proposed amendments to the Utilities law which would make it possible to create as many commissions within the State as there are cities, villages and incorporated towns.

Home Rule.

There has been little practical application of the Municipal "Home Rule" principle to public utilities regulation in the United States. Though there are in a number of states laws in effect providing for "Home Rule," few of these laws extend the "Home Rule" idea to the regulation of public utilities. The State of Missouri was, and the State of California is, an exception to this rule. The General Assembly of the State of Missouri, in the year 1907, conferred the power of regu-

lating the rates of street railway, telephone, electric light, gas, water and heating companies, upon the cities of the State; but regulation by the cities was found to be unsatisfactory and, in 1913, the act conferring powers upon the cities was repealed and the power of regulation was vested in the Public Service Commission of that State.

Control and regulation of public utilities by municipal commissions has been exercised by a few cities only. Kansas City, Missouri, was one of the first municipalities to organize a city public utilities commission. Acting under the Missouri Home Rule act, the Kansas City Council, in 1908, organized a commission of seven members, vested with power to investigate utility matters and make recommendations as to service and rates. The number of commissioners was soon reduced to three, and after an uneventful experience the commission passed out of existence.

The Public Service Commission of the city of St. Louis, Missouri, was created in 1909, under the Missouri Home Rule law, with three members, having power to conduct investigations and make reports as to service and rates. Extensive valuations of the city's utilities were undertaken and the commission incurred much criticism for apparently unreasonable delays. By the time the work was completed jurisdiction over the public service companies of all municipalities in Missouri had passed from the municipalities to the Public Service Commission of Missouri through the enactment of the Public Service Commission law of that State, in the year 1913.

The city of Los Angeles, California, organized a Commission of its own in the year 1909. A Commission of three members was created, with power to control service and make recommendations as to rates. The Commission's first important report, carrying a fair estimate of reasonable rates, raised such a storm of public protest that the entire Commission resigned on June 30, 1911. In spite of the statutory provision which made it possible for the city of Los Angeles to continue "Home Rule" of its utilities, if it so determined, on August 9, 1915, rate control over the utilities of that city was transferred to the Railroad Commission of California.

All incorporaed cities in California, about two hundred and fifty in number, had jurisdiction over public utilities in the respectve cities, including the power of rate making, up to November, 1914, when the rate making power was transferred to the Railroad Commission. By constitutional amendment, the city of Los Angeles only now has a local commission, without rate making power. The California Commission now has complete rate fixing power in entire state, all incorporated cities included.

At the present time there is no city commission in the United States exercising jurisdiction over the rates of public utilities.

In the course of its report the Illinois Legislative Public Utilities Committee had the following to say with reference to the doctrine of "Home Rule."

The relation of the city to the State is somewhat analogous to the relationship existing between the State and Federal Government, except that the State retains all power not ceded to the Federal Government, and the cities have only such powers as are expressly conferred upon them by the

statutes of the State. Upon the State devolves the duty of protecting its citizenship, and while matters solely concerning the city may be absolutely left to local regulations, yet, where the scope or sphere of influence of any agency, moral, financial, or in any manner extends beyond the limits of a municipality, the State should, under the exercise of its police power exercise such supervisory control as will inure to the benefit of the State, as a whole.

The authority of the State in the conservation of the public good should not yield to mere phrases or irrelevant axioms. The incitation of the doctrine of "Home Rule" should not preclude the sovereign State from the exercise of rightful authority. If the intrusion of those interested in public service corporations into the domain of municipal and State politics is patent, the State ought to and should, by appropriate action, invoke its authority to avert such malign influence. If municipalities are incapable of protecting their citizens for any reason from unjust exactions of public service corporations it is the duty of the State to protect them in such manner as it deems right and proper.

Conversely, if the citizens of any municipality, through their representatives, take such action as will destroy or confiscate public utility investments, it is likwise the duty of the State to assert its paramount authority to the end that justice may be accorded to citizens interested in such concerns, whether their interests be large or small. * * *. It is unnecessary to multiply instances to illustrate this doctrine. Not only is it established by the settled policy of this State but its application has been extended to the regulation of public utility companies by practically all the progressive states of the Union.

Discussing the plan of permitting cities to confer upon or withdraw power from the State Commission, at will, as provided for in the proposed amendments to the act, the Illinois Legislative Public Utilities Committee's report contains the following:

The California law permits municipalities to confer upon, or, after it has been conferred, to withdraw power from the state commission, *ad libitem*. This provision of the California law is uniform in that it applies to all municipalities of the State, regardless of size. This feature of the California law is experimental. The excerpts, heretofore given from an address of the president of the California commission, indicate that this division of authority does not meet with his approval.

Under such a system of regulating it is likely that a condition of chaos will arise. Prudence should dictate that such a provision, repugnant to efficient regulation, should not be incorporated in the proposed Illinois law. The suggestion has been made, and has been strongly advocated, that all utilities in Illinois cities under a certain population should be regulated compulsorily by a State commission and that all utilities in cities above such certain population should be regulated either by the city or by the State Commission as may be determined by the electors of such city—the right to confer upon or withdraw power from the State Commission to be optional with such municipalities.

Under such a form of regulation single interurban utilities, such as gas, electric light and water companies, supplying suburban communities and adjoining municipalities, could be subjected to the regulation of the State Commission and various cities acting independently of the State Commission. This would, of necessity, destroy all uniformity of regulation, and tend to defeat the very purposes for which such legislation is proposed. The larger cities of the State contain plants for supplying outlying territory and municipalities with public utility commodities. This condition applies not only to Chicago but in a lesser degree to Peoria, Springfield and the other large cities of the State. If these larger cities of the State do not accept the authority of the State Commission, and the smaller communities supplied therefrom are compelled to accept State regulation by a mandatory law, or do so under permissive authority of law, the smaller communities will be placed entirely at the mercy of the larger cities. By rate restrictions and other

means of regulation of the larger cities, decreasing the earning power of utility companies, burdens in the form of excessive rates or diminished service, or both, will be imposed upon the smaller communities of the State. Thus, in an effort to secure local control over utilities serving different localities, the right of invasion of outside territory and the rights of citizens therein will be established by the Legislature. The remarks of the president of the California commission, upon this question, are applicable here: "If the inhabitants of a city were wholly devoid of selfishness and also omniscient, then those people who are so unfortunate as to live outside the boundaries of such city might have no fear that any act performed by the governmental authority of such city would be detrimental to the interests of anyone. But I have a suspicion that the same selfishness which we find in the individual premeates aggregations of individuals, and that a city may sometimes do those things within its boundaries which, although advantageous to its inhabitants, are detrimental to others. We have heard much in our history of taxation without representation. Regulation by a city which directly or indirectly serves to regulate the affairs of others without the city is as to these others regulation—which is a form of taxation—without representation, and has the same injustice inherent therein as taxation without representation. Therefore we must be very slow to make up our minds that a city should have the right to regulate the affairs of a utility operating within the city, but likewise serving its commodity to other sections, until it appears that the action of such city can not work injustice to the other patrons of the utility to be regulated.

The smaller municipalities of the State would, by basing their rights with reference to public utility regulation solely upon the question of population, be deprived of privileges conferred upon the larger cities of the State. The rights of patrons of public utilities, whether residents of large or small cities, are identical; the right of a citizen to the cheapest and best service from a public utility company, compatible with a fair return to the investor, should not be made to depend upon the size of the city where he lives, or whether he lives in a metropolis or a village. Any arbitrary and discriminatory method or regulation between the citizens of the State, because of residence, would in the judgment of the committee, be repugnant to the Constitution, and render any law containing such provision void in toto.

Even though such a law gave all cities the same option to confer upon or withdraw authority from the State Commission, it might result in the creation of very expensive machinery for the administration of the law with very few cities choosing to come under the provisions of the law. Again, part of the cities of the State would have the bond and stock issues of utility companies regulated by the State Commission, while the utility stocks and bonds of other cities would not be regulated by State law. It cannot be conceived that legislation will be urged which will provide for the regulation of stock and bond issues of all utility corporations by a State Commission, leaving part of the companies to have rates regulated by cities, (State Commissions) and another part to have rates regulated by city councils. Such a division of authority would be inconsistent, illogical and unscientific.

Under the code of Iowa the municipalities of Iowa, through their councils, have the full right to fix and regulate rates of public utilities. This system of utility regulation and control has proven unsatisfactory in Iowa. The Thirty-First General Assembly of that state had under consideration the amendment of the laws upon the subject. The Committee on Public Utilities of the Thirty-Eighth General Assembly of Iowa directed to Martin J. Wade, judge of the United States District Court, of the Southern District of Iowa, a communication requesting his views in regard to a Public Utility bill. The reply of Judge Wade is so forceful and conclusive that the Commission deems it within the bounds of propriety to insert it in this statement, as follows:

GENTLEMEN: I have been asked by your committee to make a statement of my views in regard to a public utility bill. I can not go into details, nor do I wish to appear as a supporter of any particular measure; but I submit the following suggestions:

(1) The fixing of rates of a city council elected by the people who pay rates for lighting or other service—a council composed of men, who, themselves, are paying the rates for such service, is fundamentally wrong. No man is big enough to be a judge in his own case. I do not care how honest he is; human nature is such that he is not qualified to be his own judge. Even if he decided right, the other party to the controversy, realizing his self-interest, would probably be dissatisfied with the result.

In answer to this suggestion it has been said, that this theory would take away from the city council, or the people of the community, the right to determine the amount of their own taxes, etc. This suggestion is without merit. In fixing taxes, the city council, or the people of the community, are only fixing the amount of taxes which they themselves shall pay, within limits defined by the law, or by the board of supervisors, and in such matters they are acting where there is no "controversy." No one would contend that if a man, or a community, had a "controversy," or "dispute" about taxes, that they themselves should settle that dispute. No judge would sit in any case involving a dispute over taxes which he himself was to pay, nor would any judge sit in any case which involved the rate which he, as one of the community was to pay, for light or other commodity. In fact, he would be legally disqualified.

The matter of fixing rates for public service involves no difficulty unless there is a controversy between the community and the utility company. When a controversy does arise, I insist that under the American principle—the principle of representative government, both parties are entitled to a judgment in that controversy, by a disinterested man, or body of men. This lies at the foundation of our whole system of law and order.

It is important, not only that a man shall have just determination of a dispute which he has with his neighbor, but it is highly important that a settlement of such dispute shall be such that he will have confidence in the result, even though he loses.

(2) *Present Methods Intolerable.* The people do not realize the extent of the fault of the present system. Under the Iowa law, not only is the city council given the power to fix rates, but such power is exclusive. There is no way of getting the matter before any other person or body of persons for determination.

The general notion is, that the court can fix the rate, but this is without foundation. A court can not fix a rate for any public service. All that a court can do is to enjoin the enforcement of a rate fixed by a council, when it is shown that such rate is unreasonable to the extent that it violates Section 14 of the Constitution of the United States by confiscating the property of the company—by forcing the Company to take a rate which will not be reasonable interest upon the investment.

But what then? The city council passes a rate of $1.50. The court enjoins it as confiscatory, but there it stops. The council can then adopt an ordinance fixing the rate of $1.51. Another injunction may restrain that, and the council can repeat the process, raising it a few cents each time, indefinitely, until a reasonable rate is reached. This is not mere theory—it has been done just in this way.

In connection with the foregoing, and so that there may be no misunderstanding, it is proper to say, that because of orders made in many different cases, granting temporary injunctions, where a maximum rate was fixed, a great many people have the notion that the court has been fixing rates; but this is not true. The court has the power, upon granting a temporary injunction, to restrain the enforcement of an ordinance fixing a rate, to fix the maximum which the company shall charge pending the temporary injunction, until final hearing of the case. But this is always under a requirement for a bond to secure to the persons using the public

service, a return of every dollar collected which is not ultimately determined to be just, legal, reasonable rate.

(3) *Expense of Determination Under Present Law Wasteful and Unnecessary.* It is no small matter upon a hearing before the court to enjoin a rate, or to have the facts determined. In most of the cases which have been tried in this State, it has taken days and weeks, and in some cases, months, with the testimony of experts brought from many states, before a final determination could be made. Such expense is almost prohibitive for many small communities. In a case now pending before me, the town has announced that it cannot, and will not, undertake the expense to try the case, but will let it go by default; and the difficulty is, that when final adjudication is made by the court, it settles nothing except with relation to the particular ordinance involved; and if the fighting disposition is sufficiently strong on both sides, the same process may have to be gone through again in six months.

(4) *The Real Rate Difficulty.* In truth, there isn't much difficulty in fixing rates, except as the controversy necessarily goes into the question of the investment of the company, upon which it is entitled to earn interest. The rate of interest to be earned will not ordinarily be much in dispute. The American people, not only in the communities, but upon the farms, are, in my judgment, willing that capital invested in public utilities shall earn a fair rate of interest, and whether it shall be 7, or 8, or 9 per cent, could easily be solved or compromised. But the real difficulty is the investment—the exaggerated claims, upon the one hand in some cases, the suspicion upon the other hand, that values are exaggerated; the cry "watered stock"—the feeling that the public is asked to pay interest on something that is not there. Once the question of what the investment is worth is settled, the balance is "easy." The difficulty with our present system is that there is no way of getting the value of the investment, finally and permanently determined. An inquiry into this subject in an ordinary trial, is only for the purpose of that particular trial. The court makes no record and no finding, binding upon anybody, as to the value of the investment, and every time a controversy arises, a new inquiry must be made. A utilities commission would in the nature of things, ultimately be called upon to fix valuations of these utility companies. Such valuations would go in their record and furnish a permanent basis for all future considerations, because if a valuation were made five years ago, and the books required to be properly kept, the present valuation would be largely a mere matter of computation. Everybody would know the value upon which interest had to be earned; everybody would understand why a rate was raised or lowered. It would prevent any claim of fictitious value—it would eliminate stock watering—it would give to the securities of the utility companies a stability which would protect against financial disaster. In other words, it would establish a business basis upon which the relations between the company and the people would rest, and with reference to which all their negotiations would be handled. I apprehend that in ten years, law suits over rates would be out of all courts.

(5) And most important of all is, that it would take the rate question out of local politics. It would eliminate the feeling of suspicion, antagonism, and even rebellion, which is so prevalent when these controversies arise.

It is of the highest importance, especially in these times, that our legislation shall be such that everybody—no matter how ignorant he may be, may understand the basis of public and legal action, because confidence in the law and in its administration is the most important asset of this Republic.

Finally: Any suggestion that it is impossible for the legislature to devise a method by which just, fair men can be selected for such a commission, is in conflict with our whole theory of government. When the time comes that men can not be selected as disinterested judges in disputes between their neighbors, our whole system falls.

State Public Utilities Commission.

The framers of the Public Utilities act, of Illinois, had the ad-

vantage of the experience of other states to guide them in its preparation. It embodies many of the features of the Interstate Commerce Act, which were deemed applicable, and embraces the best provisions of other state laws. The scope of the Illinois law is not exceeded by that of any other similar state.

Some idea of the work accomplished by the Commission may be suggested by the statement that, during its administration the Commission has disposed of six thousand, three hundred and fifty-nine formal petitions and complaints. Of this number, two thousand, seven hundred and twenty were disposed of without hearings, and three thousand, six hundred and thirty-nine went to hearing.

In addition to the formal matters handled by the Commission, more than three thousand, five hundred and eighty informal complaints have been adjusted by the Commission, by correspondence or conference with parties complaining and utilities officials.

The following table shows the character and number of informal complaints filed from January 1, 1914, to March 4, 1918:

INFORMAL COMPLAINTS

Relating to	Rates.	Service.	Misc.	Total
Steam Railroads	681	731	314	1,726
Electric Railroads	41	131	31	203
Express Companies	33	37	4	74
Water Carriers	3	2	0	5
Electric Utilities	260	308	27	595
Gas Utilities	131	65	1	197
Heating Utilities	16	6	0	22
Telephone & Telegraph	127	485	31	643
Water Utilities	52	37	3	92
Warehouses	15	5	1	21
Bus Lines	2	0	0	2
Total	1,361	1,807	412	3,580

Special Committee on Public Utilities.

On January 20, 1917, the Special Committee on Public Utilities of the Forty-ninth General Assembly, appointed to investigate the sentiment of municipalities of the State with reference to the work of the Commission, presented its report. In that report the Committee said:

With reference to the attitude of the people outside the city of Chicago toward the control of down-state utilities by the State Public Utilities Commission, the committee finds that the scheme of control introduced by the Act of 1913 has met with almost universal approval. While some complaints were heard, particularly with reference to delays in matters pending before the State Commission, the general feeling throughout the State is that the control of utilities outside of the city of Chicago by the State Commission is working well and the people would be more than reluctant to return to the old system.

Through the agency of the State Commission and its corps of experts, the people of the smaller municipalities and the rural districts are now able to meet on equal terms the utilities with their great resources. * * *.

Rate Reductions.

It will thus be seen that after three years of the Commission's administration of the Public Utilities Law there appeared to be throughout the State general satisfaction with the work of the Commission and the operation of the law. This was a period of general rate reduction. During these years conditions were practically normal and as a result of the Commission's investigation and action upon rate matters there was a general reduction in rates with the possible exception of telephone cases. A few instances may be cited:

Springfield: The price for gas in the city of Springfield was reduced from $1.00 net, for the first 10,000 cubic feet, to 80 cents net, for the first 10,000 cubic feet.

Evanston: The lighting rate was reduced from 14.5 cents per kw. hr. to 13 cents per kw. hr.

Jacksonville: The price for gas at Jacksonville was reduced from $1.15 net, for the first 1,000 cubic feet, to $1.05 net, for the first 1,000 cubic feet. The rate for electricity was reduced from 13½ cents net, per kw. hr., residence lighting to 10.8 cents net, per kw. hr.

Marseilles: The residence lighting rate was reduced from 15 cents gross, per kw. hr. to 13½ cents gross, per kw. hr.

Glencoe: The lighting rate was reduced from 14.5c per kw. hr. to 12c net, per kw. hr.

Carthage: The residence and commercial lighting rate was reduced from 15c net, per kw. hr., to 13½c net, per kw. hr.

Tuscola: The residence lighting rate was reduced from 15c net, per kw. hr., to 13½c net, per kw. hr.

Harvey: The lighting rate was reduced from 14.5c per kw. hr. to 12c net, per kw. hr.

Kewanee: The residence lighting rate was reduced from 15c net, per kw. hr., to 12c net, per kw. hr.

Highland Park: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Galesburg: The residence lighting rate was reduced from 13½c net, per kw. hr., to 11c net, per kw. hr.

Joliet: The lighting rate was reduced from 14.5c per kw. hr.,

Elmhurst: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Charleston: The rate for gas was reduced from $1.35 net, per 1000 cubic feet, to $1.25 net, per 1000 cubic feet.

Kankakee: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Aledo: The rate for electric lighting was reduced from 15c per kw. hr., subject to a scale of discounts, to 10c per kw. hr., net, for the primary consumption.

Lake Forest: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Belleville: The electric lighting rate was reduced from 11.4c net, per kw. hr., primary consumption, to 10c net.

Beardstown: The rate for gas was decreased from $1.35 net, per 1000 cubic feet, to $1.20 net, per 1000 cubic feet.

LaGrange: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

LaSalle: The rate for gas was reduced from $1.25 net, per 1000 cubic feet, to $1.15 net, per 1000 cubic feet, primary consumption.

Evanston: The uniform rate for gas of $1 net, per 1000 cubic feet, was reduced to $1 net, for the first 1000 cubic feet; 90c net, per 1000 cubic feet in excess of 1000 cubic feet, up to and including 3000 cubic feet; 80c net, per 1000 cubic feet, for all gas in excess of 3000 cubic feet.

Morgan Park: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

DeKalb: The rate for gas was reduced from $1.25 net, per 1000 cubic feet, primary consumption, to $1.20 net, per 1000 cubic feet.

Morris: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Lake Forest: The rate for water was reduced from 25c net, per 1000 gallons, to 18c net, per 1000 gallons.

Riverside: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Galena: The rate for gas was decreased from $1.50 net, per 1000 cubic feet, to $1.30 net, per 1000 cubic feet, primary consumption.

Streator: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Quincy: The rate for gas was decreased from $1.00 to 95c net, per 1000 cubic feet, primary consumption.

Toluca: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Lincoln: The rate for water at Lincoln was reduced from 40c net, for the first 1000 gallons, and 30c for the next 2000 gallons, to 17c per 100 cubic feet for the first 1000 cubic feet, which is equivalent to 21½c per 1000 gallons.

Waukegan: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Zion City: The lighting rate was reduced from 14.5c per kw. hr., to 12c net, per kw. hr.

Savings by Reduced Rates.

The following statement is an estimate of the amount of money saved the patrons of public utilities in the State of Illinois by reductions in rates, made with the approval of the Commission. The statement shows a total of $5,825,000 saved the people during the period from January 1, 1914, to January 1, 1918. The statement also shows that during the year 1918, due to increases in rates, there was a loss in savings to the people in gas rates, water rates and heating rates, but that there still continued to be a saving in electric lighting rates. In spite of these increased rates for gas, water and heating, during the year 1918, and the latter part of 1917, there still remains a net saving to the people of the State of $5,871,000 due to rate decreases approved by this Commission since January 1, 1914.

TABULAR STATEMENT SHOWING COMPARATIVE RATES AND SAVINGS FOR UTILITIES SERVICE, 1914-1919

Statement of Gross Savings Effected as Compared with Rates of Jan. 1, 1914.

	Electric Rates	Lighting Gas Rates	Water Rates	Heating Rates	Total
(a) Savings up to Jan. 1, 1918	$2,405,000	$3,403,000	$32,000	–$15,000	$5,825,000
(b) Additional to Jan. 1, 1919	1,223,000	–1,061,000	– 56,000	– 60,000	46,000
Total Jan. 1, 1914, to Jan. 1. 1919	$3,628,000	$2,342,000	–$24,000	–$75,000	$5,871,000

The above statement shows a saving up to January 1, 1919 to these consumers of utility service of.....$5,871,000
If emergency war conditions had not arisen, it is estimated that this saving would have been.....$9,657,650

Note—This statement concerns only cities of over 1,000 population.
Note—A minus sign indicates that rates were increased. The figures after the minus sign indicate the amount of rate increases during the year of 1918.

Receipts (Fees Under Sections 7 and 31) Contrasted With Expenditures from Appropriations.

The operation of the Public Utilities act, which became effective January 1, 1914, has resulted in the payment of money into the State treasury, up to June 30, 1917, under sections 7 anl 31 of said act, amounting to $1,271,398.29. Expenditures for the same period, including salaries of Commissioners and Secretary, have amounted to $1,032,812.86. The excess of receipts over expenditures for said period (forty-two months) was $238,585.43.

Receipts from the same sources for the entire period, from January 1, 1914, to March 31, 1919, amount to $1,486,719.95. Expenditures for the same period, including salaries of Commissioners and Secretary, amount to $1,550,762.33. The excess of expenditures over receipts for said last named period (sixty-three months) is $64,042.38.

The large volume of receipts has been due to a great extent to the operation of section 31 of said act, providing for the payment of a fee for authority to issue securities by public utilities. The amendment to this section, which became effective July 1, 1917, providing that fees for authority to issue capital stock should be collected by the Secretary of State, instead of by the Commission, and providing further that bond issues to refund previous bond issues upon which fees had been paid, authorized by the Commission, should not be paid through the commission, has had the effect to greatly reduce the receipts of the Commission for the period commencing July 1, 1917.

In addition to this the taking over of control of steam railroads by the Federal Government has further decreased the revenues, for the reason that the Act of Congress "to provide for the operation of transportation systems while under federal control" specifically exempts steam railroads from the operation of State laws relative to the issue of stocks and bonds, thereby taking from the Commission, during the period of the war, to a very large extent, control over the issuance of stocks and bonds of steam railroads.

If, and when, the railroads shall be returned to their owners for private operation, the power of the Commission to grant authorizations

for the issuance of stocks and bonds by steam railroads will be resumed by the Commission, and the fees which will then be collected, under said section 31, upon original bond issues, will result in greatly increased revenues, as compared with the receipts for such purposes during the period of the war.

Rate Increascs.

The Commission had been in existence scarcely six months when the European war broke out. The effect of the war in its relation to public utility enterprises was not seriously felt during the first few months, but the constanly increasing demands made upon the resources of this country which grew out of the struggle in the Old World, soon began to manifest themselves in numerous ways. Prices of materials increased with the consequent increased cost of maintenance and of new constructions. The price of coal advanced and with it the cost of operation. The price of the necessities of life increased with correspondingly increased cost of labor, and this in turn vitally affected both construction and operation costs of public utilities. After the entry of the United States into the war the scarcity of labor and increased wages created most serious problems. The cost of material and labor made extensions, and in some cases even necessary repairs, impossible, and in many instances the quality of the service rendered was seriously affected. The situation became so serious that in some instances the continued operation of the utilities and the rendering of service to the public seemed impossible, unless relief were granted by increases in rates or fares. A statement recently made with reference to its work during the past year by the Public Service Commission of Missouri is peculiarly applicable to the situation in this State. That Commission said:

> Prior to the time when the United States declared war on Germany, the cost of materials and labor had been steadily increasing, and after the declaration of war the cost of materials, labor and money so quickly increased that many of the public utilities of the State faced bankruptcy and receivership with an entire abandonment or material reduction of their service, unless immediate relief should be granted in the way of increased rates for their service.
>
> The rates of the public service companies having been fixed by statute, franchise ordinances, or Commission orders, prior to the war, so as to allow only pre-war expenses and a limited return on the investment, it is apparent that they could not secure the necessary labor, materials and supplies, with which to serve the public at war prices without also an increase of their rates, and the Commission, realizing the necessity of service to the public by the railroads, express companies, street railroads, telegraph and telephone companies, electric light, gas, water and heating companies of the State, has granted increased rates to such utilities whenever it has appeared after investigation that the same were necessary to enable the utilities to serve the public.
>
> As a result of the Commission's orders, the utilities in this State have been able to grant living wages to their employees, strikes have been avoided especially in the large cities, and the public has continued to receive service which was essential not only to the successful prosecution of the war but to the business comfort and convenience of the people.
>
> Had not the Commission permitted the utilities to raise their rates to meet the increased cost of operation, there would have been curtailment of service and receiverships for utilities in many parts of the State, with large receivership expenses and even higher rates to be paid by the public, and it

was much better for the public that the Commission should grant the necessary increases in the rates.

On February 15, 1918, Secretary McAdoo addressed the following letter to the President:

I beg to hand you herewith several memoranda and letters relating to the street railway and other local public utilities furnishing light, heat and power, which I have been asked to bring to your attention by a committee representing public-utility interests.

These papers indicate the existence of genuine apprehension regarding the adequacy under present conditions of the services and rates of local public utilities. The view is expressed that increased wages and the high cost of essential materials and supplies have affected them as they have affected everybody else, and that united effort will be necessary in order to meet alike the public requirements for service and the corporate financial needs upon which that service depends.

As Secretary of the Treasury I must take official notice of those matters. It is obvious that every part of our industrial and economic life should be maintained at its maximum strength in order that each may contribute in the fullest measure to the vigorous prosecution of the war. Our local public utilities must not be permitted to become weakened. The transportation of workers to and from our vital industries and the health and comfort of our citizens in their homes are dependent upon, and the necessary power to drive many of our war industries and many other industries essential to the war is produced by them.

It may be that, here and there, because of the prominence given to less important interests immediately at hand, State and local authorities do not always appreciate the close connection between the soundness and efficiency of these local utilities and the national strength and vigor and do not resort with sufficient promptness to the call for remedial measures. In such cases I am confident that all such state and local authorities will respond promptly to the national needs when the matter is fairly and properly brought before them.

Our public service utilities are closely connected with and are an essential part of our preparations for a successful prosecution of the war, and the untavorable tendencies which the accompanying papers reveal may most effectively be checked, wherever may be found to exist, and the needed relief obtained only by prompt action on the part of the respective local authorities.

I earnestly hope that you may feel justified in expressing the conviction that the vital part which the public utilities companies represent in the life and war-making energy of the nation ought to receive fair and just recognition by state and local authorities. Cordially yours,

W. G. McAdoo.

To this letter the President replied as follows:

I have examined with care the memoranda and letters which you transmitted to me with your letter of the 15th. I fully share the views you express regarding the importance of the public service utilities as a part of our national equipment, especially in wartime. It is essential that these utilities should be maintained at their maximum efficiency and that everything reasonably possible should be done with that end in view. I hope that state and local authorities, where they have not already done so, will, when the facts are properly laid before them, respond promptly to the necessities of the situation.

I shall be glad to have you communicate with the local authorities whenever the information in your possession suggests that such a course is desirable and in the national interest. Cordially yours,

Woodrow Wilson.

Included in the memoranda referred to by Mr. McAdoo in his letter above quoted is the following extract from the annual report of the Comptroller of the Currency, Hon. John Skelton Williams:

National and state banks, and many thousands of small and large investors, have suffered seriously from the decline of the earning capacity of public utility corporations and the consequent shrinkage in the value of their securities, representing investments of many hundred millions of dollars. These losses naturally diminish the power and disposition of the public to respond to the calls of the government for money for war. This danger should arouse, I venture to suggest, the anxiety and stimulate the efforts of the Congress and of every patriotic citizen. A more urgent and pressing peril is forced upon our attention by the obvious fact that we are dependent so largely on the efficiency and strength of these corporations and on our railroads for speed and success in preparing for and prosecuting the war.

The corporations referred to supply light, heat, power and electric railway transportation for passengers and freight. They touch intimately the daily life of the people. In normal times they have been favorite targets for sneers and savage criticisms from large parts of the public and the press. In some instances, doubtless, they have deserved and invited hostility. In others, the attacks upon them probably have been unjust and unreasonable. Frequently they have been victims or beneficiaries of local politics, suffering injury in the end in either case. Yet, generally, they were able to serve the needs of their communities with reasonable efficiency and to earn fair returns on the money invested in them. Now they are threatened with ruin. If they are allowed to sink into inefficiency, much of the most important war work of the Government will be crippled or paralyzed.

The work of war has thrown upon many of these corporations strains which they are unable to endure without prompt help. The cost of their labor and of all material for operation, betterment and upkeep have increased heavily and suddenly. They are required to increase radically and quickly their service and facilities. Industries manufacturing war munitions and materials demand of the public utiltities corporations constantly greater supplies of power and light. At the industrial centers car lines are being rushed and overburdened by new armies of workers. The gas companies are called upon for gas for cooking and heating in quantities beyond all normal calculations and far beyond their present capacities. They are urged continually to furnish more coke and coal by-products, toluol, and other elements absolutely essential in modern warfare. Where cantonments have been established, the demands on the resources of water, lighting and transportation companies are especially severe; ability to comply with such demands is necessary for the safety and comfort of the fighting men in training.

A committee representing the four leading associations, which include all the principal electric light and power companies, street railway companies and the most important gas companies of the country, recently submitted to this office a report in which attention was asked to the increase within the last two years in the cost of materials they must use for maintenance of their properties. They gave a list of percentages of additional cost, showing among others the following items:

INCREASES FROM 1915 TO 1917

	Per Cent		Per Cent
Copper Wire	180	Castings, malleable	198
Pipe, cast-iron	100	Copper, bar and sheet	147
Axles	272	Lead, pig and sheet	127
Acids	162	Nails	110
Brass	300	Steel, tool	400
Car forgings	216	Tie-plates	276

The continued and increasing efficiency of these corporations is important for the successful conduct of the war. This efficiency is not possible with present conditions. Corporations proved by their own figures to be approaching bankruptcy cannot obtain money for improvements or maintenance. On the other hand, banks and citizens suffering severe losses from investments in the securities of these entirely legitimate and once promising enterprises will be discouraged from lending money to the Government or deprived of the means to lend.

The first and most direct relief to the public utilities corporations can be given by the State Public Utilities Commissions and municipal and local authorities, with the broad-minded co-operation of the people generally, understanding the necessities of war and realizing that the more promptly its burdens are accepted the sooner they will be lifted. It is essential that forbearance and consideration be exercised by the State Commission and municipal authorities and that the corporations also be permitted to make such additions to their charges for service as will keep in them the breath of solvency, protect their owners against unjust loss and give them a basis of credit on which they may obtain the funds with which to meet the strain put on them by the government's needs. The breaking down of these corporations would be a national calamity.

Because of the gravity of the situation in this regard, I am moved to ask for it the careful attention of the Congress and the public. I am impressed with the importance of early consideration by the Congress of some measure to provide directly or indirectly for advance of funds on some conservative basis to such of these corporations as need help most urgently, so that they can give adequate service to the Government. The remedy would be unusual; but the times are unusual.

The situation was so serious that efforts were made by the public utility corporations to induce the government to take over the operation and control of public utilities, particularly street railway lines, for the purpose, among others, of prescribing rates for service, as well as wages of employees, during the period of the war, to save them from general disaster and to preserve for the public the service to which it was entitled. This the government did not do. It did, however, appoint a War Labor Board, which was created to devise for the period of the war a method of labor adjustment.

Street Railway Situation.

For many years the almost universal rate of fare for street car service has been five cents. In the city of Cleveland, Ohio, the rate of three cents had been established on the municipal lines. In some instances there was a ticket fare of less than five cents. In a few cases six-cent fares were charged.

During the past year radical changes have taken place. By February, 1919, out of a total of two hundred and seventy-seven cities in the United States with a population of 25,000 or more, one hundred and seventy-six were paying increases in street railway fares, and in fifty-three others advance fares are pending.

Of the cities in which increased fares have been established, there are twenty-seven in which a ten-cent fare is being collected; eighteen in which an eight-cent fare is being collected; and fifty-seven in which a seven-cent fare is being collected; a number in which a six-cent fare is being collected, and a number of others in which reduced ticket fares only have been abolished.

Altogether there are at this time three hundred and twenty-nine cities in the United States paying increased street car fares.

In the city of Cleveland, the city of 3-cent car fares, the National War Labor Board granted an increase in wage rates to street car employees, which amounted to $1,500,000 a year. On the morning following the notice of this award, and without giving any notice, there was placed in effect a straight five-cent fare, with a charge of one cent for transfers.

A large number of cases affecting particularly the wage scale of important electric railway systems throughout the country was handled by the War Labor Board. In many of these cases the increase in the wages authorized by the awards of the War Labor Board was unprecedented, ranging from approximately thirty per cent to two hundred per cent. A few illustrations may be given affecting cities in Illinois.

East St. Louis & Alton: The trainmen received increased wages, June 1, 1917, of four cents per hour, as a result of an award of an arbitration board. On March 1, 1918, by agreement, working conditions were changed without changing the wage scale. On June 1, 1918, the wages of trainmen were advanced two cents per hour, which was not acceptable to the men. This resulted in the matter being referred to said National War Labor Board, which, on August 1, 1918, promulgated an award to be retroactive to June 1, 1918, giving trainmen an increase of 14 cents per hour and shopmen an increase of 36.36 cents per hour.

In the case of the *Aurora, Elgin & Chicago Railroad,* the wages of trainmen advanced from an average of 28.6 cents in December, 1915, to 42.1 cents in December, 1918, as a result of arbitration and agreement.

In the case of the *Chicago & Interurban Traction Company,* the wages of trainmen were advanced from a scale ranging between thirty and thirty-nine cents per hour in December, 1917, to a scale ranging between forty-three and forty-eight cents per hour, as a result of an award by the National War Labor Board.

In the case of the *Chicago Surface Lines,* on June 1, 1915, an arbitration board awarded an increase of wages from a scale ranging from twenty-three to thirty-two cents to a scale of from twenty-six to thirty-five cents, and a further increase, on June 1, 1917, raised this scale to range from thirty to thirty-nine cents. Action of the War Labor Board, on August 1, 1918, increased the scale to range from forty-three to forty-eight cents.

In the case of the *Street Railway System in Galesburg,* the average wage of trainmen was increased from twenty-four cents in December, 1915, to forty-two cents in December, 1918, the latter being fixed by award of said National War Labor Board.

In the case of the *Chicago Elevated Lines,* the wages paid trainmen increased from an average of twenty-nine cents in December, 1915, to 44.7 cents in December, 1918, the latter figure being an award of said National War Labor Board.

In connection with increases in street car fares, Mr. Taft, Chairman of the National War Labor Board, in a letter directed to the Railroad Commission of South Carolina, and referring to the situation at Charleston, states that according to figures compiled by the Federal Government, a five-cent fare in 1915 was about the equivalent of a seven-cent fare in 1918, and furthermore calls attention to the fact that if the public expects to retain street railway service, in view of the large increased cost of operation, it must pay a larger amount for the service.

In connection with the foregoing, the attention of the committee is directed to a recommendation by the National War Labor Board, over the signatures of Ex-President William H. Taft and Frank P. Walsh, of Kansas City, joint chairmen of said board, which speaks for itself, and is as follows:

We have recommended to the President that special Congressional legislation be enacted to enable some executive agency of the Federal Government to consider the very perilous financial condition of this and other electric street railways of the country, and raise fares in each case in which the circumstances require it. We believe it to be a war necessity justifying federal interference. Should this be deemed unwise, however, we urge upon the local authorities and the people of the locality the pressing need for such an increase adequate to meet the added cost of operation.

This is not a question turning on the history of the relations between the local street railways and the municipalities in which they operate. The just claim for an increase in fares does not rest upon any right to a dividend upon capital long invested in the enterprise. The increase in fare must be given because of the immediate pressure for money receipts now to keep the street railways running so that they may meet the local and national demand for their service. Over-capitalization, corrupt methods, exorbitant dividends in the past, are not relevant to the question of policy in the present exigency. In justice, the public should pay an adequate war compensation for a service which cannot be rendered except for war prices. The credit of these companies in floating bonds is gone. The ability to borrow on short notes is most limited. In the face of added expenses which this and other awards of needed and fair compensation to their employees will involve, such credit will completely disappear. Bankruptcy, receiverships and demoralization, with failure of service, must be the result. Hence our urgent recommendation on this head.

WILLIAM H. TAFT,
FRANK P. WALSH,
Arbitrators.

Attest:
W. JETT LAUCK,
Secretary National War Labor Board.
July 31, 1918.

In sustaining a mandamus action against the Indiana Commission, directing it to consider the street railway situation in Indianapolis under the emergency clause of the Indiana law, the Supreme Court of Indiana said:

Every sane person has long since realized the critical and abnormal condition of the country in every avenue of business. A living wage three years ago is a starvation wage of today. The cost of all commodities, regardless of kind or class, has increased until there is not now a semblance of normal prices. If relator was receiving only a fair and reasonable rate of fare five years ago, under present conditions we know from common knowledge, it cannot long continue to furnish reasonable service at the old rate. That is a matter for the Commission and the Legislature has wisely made provision whereby existing conditions may be met and handled to the reasonable protection of all concerned.

Commenting upon the reasonableness of increases in street railway fares, the New Jersey Court of Errors and Appeals recently said:

Assuming that the rate of five cents existing prior to the new conditions was a reasonable one, the application of ordinary common sense will unhesitatingly lead every fair-minded person to the conclusion that it would not continue to remain reasonable if the cost of production so advances as to destroy the basis upon which it was rested. The solution of such a proposition does not require the aid of legal learning. It is a question of economics which any one of ordinary intelligence can apply.

As a result of these increases in the costs of labor and material which threatened the ability of the various street railway companies to

continue operation, the Illinois Commission was appealed to for increases in rates, and, as a result of its hearings, granted temporary increases in a large number of cases.

Emergency Rate Orders—Utilities Generally.

The same general conditions applied also to utilities other than street railways. In considering these emergency cases the circumstances were such that the proceedings and the methods usually employed in rate cases considered during normal times could not reasonably be made to apply. Such procedure heretofore had involved the preparation of detailed valuations and extensive accounting and statistical studies of the property involved. The new conditions, however, were so serious that those detailed studies were no longer possible, if conditions were to be met with the promptness which they demanded. In fact, in numerous instances, it was not necessary to consider the question of valuation at all, for the reason that the increased costs of operation were so great as practically to wipe out net operating revenues. Little or nothing was left for any return on investment. Under such circumstances, a valuation would not only prove unnecessary to determine an emergency rate, but the delay incident to the making of a detailed valuation would result in irreparable loss and injury to the utility and a crippling of the service which the public required. Faced with this situation, the Commission modified its methods of investigation and procedure in such a way as to meet the abnormal conditions, as it believed, with fairness and justice to all parties. Confronted with these same conditions, commissions throughout the country generally took this same view of the situation.

The Idaho Commission, in discussing the question of valuation in a recent case, said:

> The Commission does not deem it necessary in the determination of the questions involved in this case to attempt to establish a valuation basis for rates at this time, but will deal with the question of increased rates as proposed in said schedule as an emergency occasioned by war conditions, and will grant such temporary relief as the testimony and exhibits and an examination of the company's operating revenues and operating expenses seem to justify.

In the case of the Empire Gas and Electric Company, the New York Commission, Second District, granted temporary increases on account of the emergency produced by war, and said:

> As theoretical rates, they are not satisfactory to the Commission, but all concerned are confronted by a very practical and very serious condition which requires for the moment the discarding of theories as to scientific rate making. All parties to the controversy are to be congratulated and commended for taking such action as will enable the Commission to fix emergency rates without a prolonged investigation involving perhaps a valuation of the company's properties in each community, and which would be conducted at a time when costs are shifting so rapidly that, whatever time might be taken as the basis of calculation, the situation would probably be materially changed while the investigation was in progress.

The New Jersey Board of Public Utilities Commissioners defines an emergency as follows:

> An emergency for which a carrier is entitled to relief by a temporary rate exists where, by reason of general conditions not affecting the applicant

utility alone, the operating revenues are insufficient to operate and maintain its property and to pay rentals and interest on such of its securities, a default in the payment of which would jeopardize the solvency of the company.

In granting emergency relief for gas furnished in the city of Sedalia, the Missouri Public Service Commission said:

However, as much as the Commission desires to have before it the complete inventory and appraisement of a public utility before reaching a conclusion as to a reasonable rate to cover the service rendered, it has found it wholly impractical in many instances during these extraordinary times in the world's history to demand it as a condition precedent. The Commission is not unmindful of the fact, with labor and fuel prices ascending skyward by leaps and bounds, that during the interim of time that the expert doctors are making a diagnosis of the case by a long, laborious inventory and appraisal of the public-serving utilities of our State, the patient would very likely succumb, and the resultant thereof be that the public would be without service.

* * * Unless it can grant prompt emergency relief to utilities suffering because of abnormal conditions, for which they are not responsible, as well as reduce their rate of charge in behalf of the using public when the facts warrant such action, then a regulatory commission serves no useful purpose in our form of government. Upon this theory our Commission has been equal to the underlying duties for which it was created, and has fearlessly, yet painstakingly, granted the emergency relief to the public service utilities of our State. * * * This character of financial relief has been granted of a temporary nature only, the Commission reserving unto itself full, continuing jurisdiction in the premises; and it is upon this basis that relief will be granted to the applicant.

In a case where the New Jersey Commission had increased street railway fares without having made a valuation, the New Jersey Court of Errors and Appeals in a recent decision (O'Brien v. Board of Public Utilities Commissioners), said on the question of the necessity of a valuation as a basis for rate making in an emergency case:

We are of the opinion that under the facts shown in this case, a valuation is not required by law; that that board exercised a reasonable discretion within the legislative power delegated to it, and that no more is exacted from the public than the services rendered are reasonably worth to it if they are to be efficiently served or perhaps served at all.

The following table shows the number of applications to the Public Utilities Commission of Illinois, for emergency rate increases by electric, gas, heating and water utilities, respectvely. It also shows the number of such applications approved, the number disapproved, and the number still pending on January 1, 1919:

To January 1, 1919.	Filed.	Approved.	Disapproved.	Pending.
Electric	138	112	6	20
Gas	72	62	3	7
Heating	29	19	4	6
Water	34	17	2	15
Total	273	210	15	48

A paragraph appearing in many of the Commission's orders relative to rate increases states the position of the Commission as follows:

Government officers, having in mind the prosecution of the war, have expressed concern lest the public utilities of the country, through increased

operating expenses without corresponding increases of revenue, might be unable to maintain their service to a standard which is essential for the successful prosecution of the war. The Commission cannot overlook the fact that the expenses which have been incurred have been very material in amount, and that in many cases the need for relief in the way of increases of rates to meet the increased expenses of operation is very vital.

All of the emergency orders entered by the Illinois Commission provide for temporary increases only. In most cases the advanced rates have been made effective for a short definite period or for a period not to exceed six months or a year after the termination of the war, as declared by the President of the United States, unless otherwise ordered by the Commission, and in each such instance, at the termination of this temporary period, the rates automatically revert to the rates in effect previous to the entry of the emergency order, unless otherwise ordered by the Commission. In this way it will be seen that the burden is put upon the utility to show cause why the pre-war rates should not be restored at the close of the war period.

And so it happens that in a majority of the rate cases determined by the Commission during the past year increased emergency or temporary rates have been granted, and there is reason to believe that much of the present opposition to the operation of the law and its administration by the Commission, and the clamor for its repeal or amendment, is due at this time to these war-time rates.

The following table shows recent rate movements in Illinois by comparing the rates for various classes of utility service for various years, the rates for the year 1918 with the year 1914, and for the year 1919 with the year 1914, and for the year 1919 with the year 1918:

TABULAR STATEMENT SHOWING COMPARISON OF RATES FOR UTILITY SERVICE

As of Jan. 1, 1914, 1918, and 1919, in cities of over 1,000 population.

	Electric Lighting Service.		Gas Service.		Water Service.		Heating Service.		Total.	
	Number.	Percent.	Number.	Percent.	Number.	Percent.	Number.	Percent.	Number.	Percent.
Cities in which 1918 rates exceeded 1914 rates	13	5.2	13	5.8	1	1.9	8	22.9	35	6.2
Cities in which 1918 rates were less than 1914 rates	126	50.0	97	43.5	6	11.5	3	8.5	232	41.4
Cities in which 1918 rates were same as 1914 rates	113	44.8	113	50.7	45	86.6	24	68.6	295	52.4
	252	100.0	223	100.0	52	100.0	35	100.0	562	100.0
Cities in which 1919 rates exceeeded 1914 rates	115	45.7	72	32.3	16	30.8	24	70.6	227	40.5
Cities in which 1919 rates were less than 1914 rates	102	40.5	65	29.2	6	11.5	3	8.8	176	31.4
Cities in which 1919 rates were same as 1914	35	13.8	86	38.5	30	57.7	7	20.6	158	28.1
	252	100.0	223	100.0	52	100.0	34	100.0	561	100.0
Cities in which 1919 rates exceeded 1918 rates	147	58.1	72	32.3	16	30.8	18	52.9	253	45.0
Cities in which 1919 rates were less than 1918 rates	5	2.0	.....	.....	2	3.9	.....	.....	7	1.3
Cities in which 1919 rates were same as 1918 rates	101	39.9	151	67.7	34	65.3	16	47.1	302	53.7
	253	100.0	223	100.0	52	100.0	34	100.0	562	100.0

Ordinance Rates.

There would seem to be no question as to the power of the Commission to regulate the rates and service of public utilities regardless of existing franchise ordinances which make specific provision for rates and service. The courts generally have held that Commissions operating under laws similar to the Illinois Public Utilities Law possess such power. (*Chicago & Southern Trac. Co.* v. *Illinois Central R. R. Co.,* 246 Ill., 146; *State Public Utilities Commission, ex rel. Harley B. Mitchell, et al.,* v. *Chicago & West Towns Ry. Co., et al.,* 275 Ill., 555; *City of Chicago, et al.* v. *Wm. L. O'Connell, et al.,* 278 Ill., 591; *Charles A. Hite* v. *C. I. & W. R. R. Co., et al.,* 284 Ill., 297; *Milwaukee Electric Railway & Light Co.* v. *Railroad Commission of Wisconsin,* 153 Wis., 592, 238 U. S. 174; *Wyandotte County Gas Co.* v. *Kansas, ex rel.,* 88 Kans., 165, 231 U. S., 622; *City of St. Louis* v. *Public Service Commission of Missouri and United Railways Company of St. Louis* (not yet reported); *Winfield et al.* v. *Public Service Commission of Indiana et al.,* 118 N. E., 531, P. U.R. 1918B, 747; *Traverse City* v. *Michigan Railroad Commission et al.,* 168 N. W., 481, P. U. R., 1918F, 752; *City of Pawhuska* v. *Pawhuska Oil & Gas Co.,* P. U. R., 1917F, 226; *State of Montana, ex rel., City of Billings* v. *Billings Gas Co.,* 173 Pac., 799, P. U. R., 1918F, 768; *Sand Point Water & Light Co., Ltd.,* v. *City of Sandpoint,* 173 Pac., 972, P. U. R., 1918F, 737; *City of Portland* v. *Public Service Commission of Oregon et al.,* 173 Pac., 1178, P. U. R., 1919A, 127; *State ex rel. Webster* v. *Superior Court,* 67 Wash., 37; *City of Fall River et al* v. *Public Service Commission et al.,* 117 N. E., 915, P. U. R., 1918B, 141; *Burrough of North Wildwood et al.* v. *Board of Public Utility Commissioners et al.,* 95 Atl., 749, P. U. R., 1916B, 77; *Benwood* v. *Public Service Commission,* 75 W. Va., 127).

As to whether, when, and under what circumstances and conditions, a franchise ordinance may constitute an inviolable contract, protected by the Constitution of the State of Illinois and the Constitution of the United States, as between a municipality and the utility given the franchise, the attention of the Committee is directed to the following cited authorities and quotations from the opinion of the court in each of the cases referred to:

In the *City of Danville* v. *Danville Water Company,* 178 Ill., 299, the water company sued the city to recover the sum of $2,620.62, which it claimed the city owed for water consumed according to the terms of an ordinance under which the Water Company constructed its plant and furnished water to the city. The city admitted liability for $1,930.00, but denied liability for the remainder on the ground that by the terms of certain ordinances passed by the city subsequent to the original ordinance under which the Water Company began operations, the rates which the city was bound to pay as rentals for water hydrants had been reduced.

It appeared that on November 9, 1882, the city council of Danville passed an ordinance, granting the Water Company the right of constructing and maintaining waterworks, and of using the streets of the city for that purpose for the term of thirty years. By the same ordinance the city rented from the Water Company, and agreed

to pay for one hundred fire hydrants for the term of thirty years, at the rate of $75 each per year. It was further provided that hydrants in excess of one hundred should be at the rate of $62.50 each per annum, for the next forty hydrants, and for all in excess of one hundred and forty, the rate should be $50 each per annum, for the balance of thirty years.

On January 17, 1895, the city council of Danville passed an ordinance reciting that the rates theretofore charged as hydrant rental were excessive, and that from and after May 1, 1895, the rate for the first one hundred and forty hydrants should be $50 each, and proportionately lower rates should be charged for additional hydrants. This ordinance was approved and a certified copy thereof was served on the Water Company within five days thereafter.

The city contended that the rates fixed in the last mentioned ordinance were just and reasonable and that its indebtedness to the Water Company should be computed upon the basis of the rates prescribed in said ordinance.

The Water Company contended that the ordinance of November 9, 1882, fixing the higher rates for a period of thirty years, having been accepted and acted upon by the Water Company, constituted a valid contract between it and the City of Danville; that the subsequent ordinance of January 17, 1895, which provided for a substantial reduction in water rates, was unconstitutional and void.

The Circuit Court adopted the view of the water company and rendered judgment in its favor for the full amount claimed.

On appeal the Supreme Court reversed the judgment and remanded the case.

The Illinois Supreme Court decided that the city had no power to make a contract to pay fixed and unalterable rates for thirty years; that under the authority conferred upon it by the legislature "to contract for a supply of water for public use for a period not exceeding thirty years," the city could enter into an agreement with the water company whereby "the supply could be made for the entire term, but the price is to be determined from time to time, and the rates to be settled by the rules of the common law."

The Court held further that by virtue of the legislative power conferred upon the city of Danville, "There was to be reserved to the city council the power to fix the rates by ordinance at such figures as should be fair and reasonable. If the rates were to be fixed by ordinance, they could only be fixed by such ordinance as was legal and whose passage was within the power of the council. *A legislative body can not part with its powers by any proceeding so as not to be able to continue the exercise of such powers. It has no authority even by contract to control and embarrass its legislative powers and duties.* (Greenwood on Public Policy, p. 317; Cooley's Const. Lim., p. 206; 15 Am. and Eng. Ency. of Law, p. 1045; 1 Dillon on Mun. Corp., Sec. 443). What might be proper for a ciy this year might not be proper the next year. It is impossible to determine with absolute or even tolerable certainty what changes a few years might work in the character and reasonableness of rates to be charged for water supply. No

contract is reasonable by which the governing authority abdicates any of its legislative powers and precludes itself from meeting, in a proper way, emergencies, or occasions that may arise. These powers are conferred in order to be exercised again and again, as may be found needful or politic, and those who hold them in trust today are vested with no discretion to circumscribe their limits or diminish their efficiency, but must transmit them unimpaired to their successors. This is one of the fundamental maxims of governments; and it is impossible that free government with restrictions for the protection of individual or municipal rights could long exist without its recognition. (*Gale* v. *Kalamazoo,* 23 Mich., 354; *Millikin* v. *County of Edgar,* 142 Ill., 528)."

In two other cases (*Rogers Park Water Co.* v. *John B. Fergus* (Dec., Feb. 17, 1899), 178 Ill., 571; *Freeport Water Co.* v. *City of Freeport,* 186 Ill., 179) the questions presented and decided were substantially the same as those passed upon in the case of *City of Danville* v. *Danville Water Company, supra.* The Illinois Supreme Court adhered to its decisions in the Danville water cases. These cases were then appealed to the Supreme Court of the United States, where the judgment of the State Court, in each case, was affirmed. (*Rogers Park Water Co.* v. *John B. Fergus,* 180 U. S. 624; *Freeport Water Co.* v. *City of Freeport,* 180 U. S., 587).

The ordinances referred to in these cases were passed pursuant to an act of the legislature specifically conferring upon municipalities the power to contract for water supply and fix rates therefor. They were therefore in a stronger position than ordinances which provide rates for gas, electric, telephone or other utility service, since the legislature never specifically conferred upon municipalities the power to contract with utilities, fixing rates for a specified time.

The following table gives the relation of rates in effect in this State on various dates to the rates provided for by ordinance. It shows that on January 1, 1914, when the Commission was organized, in 61.8 per cent of the cities of the State of 1,000 population or over, with rate restricting ordinances, rates were lower than the ordinance rates; that on January 1, 1918, the rates in effect were lower than the ordinance provisions in 65.7 per cent of these cities; that on January 1, 1919, the rates were lower than ordinance provisions in 56.7 per cent of such cities.

STATEMENT SHOWING RELATION OF EFFECTIVE RATES WITH FRANCHISE RATES.

In Cities of over 1,000 population.

	Electric service.		Gas service.		Water service.		Heating service.		Total.	
	Number.	Percent.	Number.	Percent.	Number.	Percent.	Number.	Percent.	Number.	Percent.
Cities with rate restricting ordinances	162	62.0	155	69.6	42	80.9	7	20.0	366	64.1
Cities without rate restrictions in ordinances	87	33.5	27	12.1	7	13.5	17	48.6	138	24.2
Ordinances not available	12	4.5	41	18.3	3	5.6	11	31.4	67	11.7
Total cities considered	261	100.0	223	100.0	52	100.0	35	100.0	571	100.0
Cities in which 1914 rates exceeded ordinance rates	10	6.5	19	12.3	1	2.4	4	57.2	34	9.5
Cities in which 1914 rates were less than ordinance rates	112	72.7	101	65.2	6	14.3	2	28.6	221	61.8
Cities in which 1914 rates were same as ordinance rates	32	20.8	35	22.5	35	83.3	1	14.2	103	28.7
	154	100.0	135	100.0	42	100.0	7	100.0	358	100.0
Cities in which 1918 rates exceeded ordinance rates	4	2.5	23	14.8	1	2.4	4	57.2	32	8.9
Cities in which 1918 rates were les than ordinance rates	120	76.5	104	67.1	11	26.2	2	28.6	237	65.7
Cities in which 1918 rates were same as ordinance rates	33	21.0	28	18.1	30	71.4	1	14.2	92	25.4
	157	100.0	155	100.0	42	100.0	7	100.0	361	100.0
Cities in which 1919 rates exceeded ordinance rates	40	24.8	40	25.8	9	21.4	5	71.4	94	25.7
Cities in which 1919 rates were less than ordinance rates	107	66.5	89	57.4	9	21.4	2	28.6	207	56.7
Cities in which 1919 rates were same as ordinance rates	14	8.7	26	16.8	24	57.2	.....	.....	64	17.6
	161	100.0	155	100.0	42	100.0	7	100.0	365	100.0

NOTE—Rates are considered as of January 1, for each year specified.

CONCLUSION.

Public utility corporations are the only corporations that are not free to advance the prices of their products and commodities to meet increased cost of production and operation. Every person, natural or artificial, engaged in private manufacture of trade, or in private business of any kind, may without restraint advance the prices to dealers or consumers of his or its products or wares or goods to meet the increased cost of manufacture and conduct of business, and this all such have done promptly from time to time, during the period of war prices. This is true as to every conceivable private enterprise or private business conducted and managed by any private person or corporation.

All corporations conducting a business affected with a public interest and holding themselves out to serve all who may require their service on equal terms and without discrimination as between persons and as between localities, and devoting their property to the public use in this way are public utilities and subject to public supervision and control, as to fares, rates, services, finances and so forth.

The legislative department, under the police power, of which it is the sole repository, may exercise such control and supervision directly, or may delegate such power to an agency creatd by it.

While public utility corporations in Illinois were and are affected, like all other corporations engaged in private manufacture, trade or business, by the abnormal costs of labor, material, fuel and so forth, caused by the war, yet they are not at liberty to advance fares for transportation afforded, or rates for the commodities of gas, electricity, heat, light, power, water and so forth, manufactured, furnished or delivered by them, except as permitted to do so by the order of the Public Utilities Commission.

No matter to what abnormal height costs of material for construction of, additions to or extensions of, plant, equipment and facilities, may advance; no matter that by reason of increased costs of fuel, labor and materials for maintenance of repairs, renewals and depreciation, the cost of operation exceeds income, they must continue to sell their transportation or commodities in strict accord with their schedule of fares or rates on file with the Public Utilities Commission. With mounting costs of operation and a fixed selling price of transportation or commodities, many of the utilities in Illinois and all over the country found themselves threatened with bankruptcy and consequent inability to furnish anything like adequate service, either to the government for war requirements or to the public served by such utilities.

In this emergency, there were filed with the Commission about three hundred applications for relief, and after as full investigation as time and conditions would permit of, advance in fares and rates were allowed in each case of real emergency. As a rule, each order provided a time limit, at the expiration of which the rate superceded by the emergency order automatically should go into effect, unless in the meantime otherwise ordered by the Commission, thus placing the burden upon the utility to show continuing emergency.

Each case was left open, the Commission retaining jurisdiction to modify such order at any time, upon application of any interested party, or upon the Commission's own motion.

In emergency cases so heard during the past year and a half, few detailed or exhaustive valuations of property of utilities, respectively, so applying were made. As hereinbefore shown, it was unnecessary to do so where the question of reasonable rate of return on the investment was not involved, but only the question of a sufficient income to meet the abnormal operating expenses, with perhaps a slight margin of net return.

Contrary to the general assumption, the Public Utilities Act of Illinois does not require that a valuation shall be made in all cases as the basis of a rate increase or reduction. The statute authorizes the Commission to make a valuation when deemed necessary. If the Commission had delayed sufficiently to make valuation in any considerable number of such cases, the war would have been over before relief could have been granted, with consequent bankruptcy in many cases and totally inadequate service to the Government in numerous cases where power and light were furnished, and to the public in practically all.

As costs of everything, to everybody, including of course public utilities, advanced with unexampled rapidity and suddenness, the Commission was confronted with a most serious and difficult situation—a situation unique and wholly without precedent to guide—a situation wholly unforeseen and wholly without the contemplation of the legislature when the Public Utilities Act was adopted. The Commission gave very careful consideration to the many legal and economic problems thus presented. It moved cautiously, but felt compelled to act promptly to meet the critical condition.

The Commission was not deceived. It knew increases in rates, to be charged by public utilities, are always unpopular. It knew a prejudice existed, to some extent, against public utilities, and that in a measure that prejudice was well founded upon past transactions and an attitude toward the public by some of the utilities.

If the Commission had chosen to cater to prejudice, to seek popularity and to proceed along the lines of least resistance, on the part of patrons and consumers of public utilities, it could have ignored actual conditions, turned a deaf ear to the appeals of a government in war, to the appeals of utilities in financial distress, and arbitrarily denied all relief.

Instead of doing this, the Commission studied the everchanging conditions and questions, and sought to meet the crisis with courage and efficiency. There were unavoidable delays in the disposition of cases and other business of the Commission, about which there was some criticism by governmental war organizations and by utilities. In this connection, it should be said the Commission's organization was, to use an expressive slang phrase, "all shot to pieces." The war draft took from the Commission its technical men, engineers and accountants, as well as others. These were replaced, temporarily, with the best men obtainable, many inexperienced in the work. Several of the places

thus made vacant never were filled. Employees going to the front. either as volunteers or by the draft, were given leaves of absence for the period of the war, but those who left their places to accept civilian employment in Washington or other places of the country, at a salary more attractive that what the State could give, were not given leaves of absence, and they have never returned to the organization. Of those who were given leaves of absence, some have returned and all those who sought their old places were promptly reinstated in accordance with assurances given them when they went to the front. The organization has been crippled since the United States entered the war and has not yet recovered its former efficiency.

As above indicated, these conditions caused delays and some errors and mistakes. This is explanatory, not apologetic. The Commission has no apology to make. On the contrary, it possesses a feeling of pride in the record of courage and efficiency with which it has met the very trying and extraordinary period through which it has passed and is passing.

Now as to the immediate future, the period of rehabilitation, "unscrambling" and reconstruction during the biennium, and this in relation to its bearing upon a proposed legislation affecting the Public Utilities Act, and the jurisdiction of the Commssion: The emergency orders in which the duration of the increased rates was limited are coming on for further action and adjustment in over two hundred cases. In many, if not all, of these a permanent rate or further temporary adjustment will have to be made during the next year, or at least during the next biennium. This, in a majority of said cases, will involve the making of complete and exhaustive valuations of the property upon which to fix a permanent rate. All such emergency orders will have to be dealt with in some way, just, as in almost innumerable instances arising out of exigencies and necessities of the war, there are here presented to the Commission questions of "unscrambling" and reconstruction. The Commission looks forward to it with some trepidation and has given it much consideration and study. It has already entered upon this work, as the time limit of the emergency orders first passed has expired. The situation is complex and will require all the constructive ability and talents a state body devoting all its time and availing of all its experience can bring to the task.

To now withdraw from the Public Utilities Commission the jurisdiction to deal with these matters and vest the same in as many cities, villages and incorporated towns as there are in the State, is to open wide the door to inefficiency, inextricable confusion and chaos. Those seeking to bring about the changes at this time should reflect that such legislation would be destructive of public utilities and as a consequence very hurtful to all the people of the State served by them.

Respectfully submitted,
PUBLIC UTILITIES COMMISSION.
By T. E. Dempcy,
Chairman.